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भारत का राजपत्र
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No. 21] NEW DELHI, MAY 21—MAY 27, 2023, SATURDAY/VAISAKHA 31, —JYAISHTHA 6, 1945

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विदेश मंत्रालय
(सी.पी.वी. प्रभाग)

नई दिल्ली, 19 मई, 2023

का.आ. 819.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास, ताल्लिन्न मैं अमित चौधरी, सहायक अनुभाग अधिकारी, को मई 19, 2023 से सहायक कांसुलर अधिकारी के रूप में कांसुलर सेवाओं का निर्वहन करने के लिए अधिकृत करती है।

[फा. सं. टी. 4330/01/2023(17)]

एस. आर. एच. फहमी, निदेशक (सीपीवी-1)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 19th May, 2023

S.O. 819.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Mr. Amit Chaudhary, Assistant Section Officer in the Embassy of India, Tallinn as Assistant Consular Officer to perform Consular services with effect from May 19, 2023.

[F. No. T. 4330/01/2023(17)]

S. R. H. FAHMI, Director (CPV-I)

नई दिल्ली, 19 मई, 2023

का.आ. 820.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद्वारा, सरकार भारत के राजदूतवास बीजिंग में सृरूपा मंडल, सहायक अनुभाग अधिकारी को दिनांक मई 19, 2023 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा. सं. टी. 4330/01/2023(18)]

एस. आर. एच. फहमी, निदेशक (सीपीवी-1)

New Delhi, the 19th May, 2023

S.O. 820.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Smt. Srirupa Mandal, Assistant Section Officer as Assistant Consular Officer in the Embassy of India, Beijing to perform the consular services as Assistant Consular Officer with effect from May 19, 2023.

[F. No. T. 4330/01/2023(18)]

S. R. H FAHMI, Director (CPV-I)

वाणिज्य एवं उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 22 मई, 2023

का.आ. 821.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एंव निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एंव निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इंस्पेक्टोरेट ग्रिफिथ इंडिया प्रा.लि., 488, ख़नजनचक, दुर्गाचक, हल्दिया, पूर्ब- मेदिनीपुर-721602, पश्चिम बंगाल, (जिसे एतद्पश्चात उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की सं.का.आ. 3975 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-।, अर्थात लौह अयस्क, मैंगनीज अयस्क और फेरोमैंगनीज के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन हल्दिया पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

(i) यह अभिकरण, खनिज और अयस्क समूह-। का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त अधिकारियों को पर्याप्त सहयोग और सहायता प्रदान करेगी;

(ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी ।

[फा. सं. के-16014/3/2023 - निर्यात निरीक्षण]

एम. बालाजी, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 22nd May, 2023

S.O. 821.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government now recognizes, M/s. Inspectorate Griffith India Pvt. Ltd., 488, Khanjanchak, Durgachak, Haldia, Purba- Medinipur – 721602, West Bengal, (hereinafter referred to as the said agency), as an agency for three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group - I, namely Iron Ore, Manganese Ore and Ferromanganese, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O.3975 dated 20th December, 1965 respectively, before to export of the said Minerals and Ores at Haldia Port, subject to the following conditions, namely: -

(i) the said agency shall extend adequate cooperation and assistance to the officers nominated by the Export Inspection Council on this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores – Group I (Inspection) Rules, 1965;

(ii) the said agency, in performance of their function as specified in this notification, shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time.

[F. No. K-16014/3/2023 - Export Inspection]

M. BALAJI, Jt. Secy.

सड़क परिवहन और राजमार्ग मंत्रालय

(हिंदी अनुभाग)

नई दिल्ली, 18 मई, 2023

का.आ. 822.—केंद्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उपनियम (4) के अनुसरण में क्षेत्रीय कार्यालय, भारतीय राष्ट्रीय राजमार्ग प्राधिकरण, उत्तर प्रदेश (पश्चिम) लखनऊ, क्षेत्रीय कार्यालय, भारतीय राष्ट्रीय राजमार्ग प्राधिकरण, रांची और क्षेत्रीय कार्यालय, भारतीय राष्ट्रीय राजमार्ग प्राधिकरण, देहरादून (उत्तराखंड), जिनके 80% से अधिक कर्मचारियों ने हिंदी कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा. सं. ई.-12012/1/2023-विविध/ हिन्दी]

कमलेश चतुर्वेदी, संयुक्त सचिव

MINISTRY OF ROAD TRANSPORT AND HIGHWAYS

(Hindi Section)

New Delhi, the 18th May, 2023

S.O. 822.—In pursuance of Sub Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976, the Central Government hereby notify Regional Office, National Highway Authority of India, Uttar Pradesh (West) Lucknow, Regional Office, National Highway Authority of India,

Ranchi and Regional Office, National Highway Authority of India, Dehradun (Uttrakhand) where of more than 80% staff have acquired the working knowledge of Hindi.

[F. No. E. 12012/1/2023-Misc./Hindi]

KAMLESH CHATURVEDI, Jt. Secy.

भारी उद्योग मंत्रालय

(हिंदी अनुभाग)

नई दिल्ली, 24 मई, 2023

का.आ. 823.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथासंशोधित 1987, 2007 और 2011) के नियम 10 के उप-नियम (4) के अनुसरण में, भारी उद्योग मंत्रालय के प्रशासनिक नियंत्रणाधीन कार्यालय **'बीएचईएल-गोइंदवाल,तरनतारण,पंजाब" इकाई** को, जिसके 80% से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्द्वारा अधिसूचित किया जाता है।

[फा. सं. ई-11012/2/2018-हिन्दी]

विजय मित्तल, संयुक्त सचिव

MINISTRY OF HEAVY INDUSTRIES

(Hindi Section)

New Delhi, the 24th May, 2023

S.O. 823.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976 (as amended in 1987, 2007 and 2011), the Central Government hereby notifies the **BHEL-Goindwal, Tarantaran,Punjab** unit, an office under the administrative control of the Ministry of Heavy Industries wherein more than 80% staff have acquired the working knowledge of Hindi.

[F. No. E-11012/2/2018-Hindi]

VIJAY MITTAL, Jt. Secy.

नई दिल्ली, 24 मई, 2023

का.आ. 824.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथासंशोधित 1987, 2007 और 2011) के नियम 10 के उप-नियम (4) के अनुसरण में, भारी उद्योग मंत्रालय के नियंत्रणाधीन **'नेशनल ऑटोमोटिव टेस्ट ट्रैक्स (नैट्रेक्स), इंदौर'** कार्यालय को, जिसके 80% से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्द्वारा अधिसूचित किया जाता है।

[फा. सं. ई-11012/2/2018-हिन्दी]

विजय मित्तल, संयुक्त सचिव

New Delhi, the 24th May, 2023

S.O. 824.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976 (as amended in 1987, 2007 and 2011), the Central Government hereby notifies the **National Automotive Test Tracks (NATRAX), Indore,** an office under the control of the Ministry of Heavy Industries wherein more than 80% staff have acquired the working knowledge of Hindi.

[F. No. E-11012/2/2018-Hindi]

VIJAY MITTAL, Jt. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 8 मई, 2023

का.आ. 825.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 5334(अ) तारीख 20 दिसम्बर 2021 जो भारत के असाधारण राजपत्र संख्या 4943 तारीख 22 दिसम्बर 2021 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में तेलंगाना राज्य में हासन से चेरलापल्ली (तेलंगाना राज्य) तक एल.पी.जी के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल.) द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त असाधारण राजपत्र अधिसूचना की प्रतिया जनता को तारीख 19 जनवरी 2022 तक उपलब्द्ध करा दी गई थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है की इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है की उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर हिन्दुस्थान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 कि धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल.) पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध' कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

मंडल: भूतपुर		जिला: महबूबनगर		राज्य: तेलंगाना	
क्रमांक	मंडल का नाम	गाँव का नाम	सर्वे नं.	क्षेत्रफल	
				एकर्स	गुंटा
(1)	(2)	(3)	(4)	(5)	(6)
1	भूतपुर	कप्पेटा	228	00	04

[फा. सं. आर-12031/2/2019-ओ.आर-आई/ई-31417]

पी. सोमाकुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 8th May, 2023

S.O. 825.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No.5334(E) dated the 20th Dec.2021 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Extraordinary Gazette of India No. 4943 dated the 22nd Dec. 2021 the Central Government declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline in state of Telangana for transportation of LPG, from Hassan (Karnataka) to Cherlapalli (Telangana) Pipeline by Hindustan Petroleum Corporation Limited (HPCL).

And whereas copies of the said Extraordinary Gazette notification were made available to the public up to 19th January 2022.

And whereas the competent authority has under Sub-section (1) of Section 6 of the said Act submitted report to the Central Government.

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire Right of User therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Hindustan Petroleum Corporation Limited (HPCL), free from all encumbrances.

Hindustan Petroleum Corporation Limited (HPCL) shall be exclusively liable for any compensation in terms of Section 10 of the P&MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government for any matter relating to the pipeline.

SCHEDULE

Mandal: Bhoothpur		Distt: Mahbubnagar		State: Telangana	
SL. No	Name of the Mandal	Name of the Village	Survey No.	Area	
				Acres	Guntas
(1)	(2)	(3)	(4)	(5)	(6)
1	Bhoothpur	Kappeta	228	00	04

[F. No. R-12031/2/2019-OR-I/E-31417]

P. SOMAKUMAR, Under Secry.

नई दिल्ली, 8 मई, 2023

का.आ. 826.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 2969(अ) तारीख 22 जुलाई 2021 और का. आ. 5332(अ) तारीख 20 दिसम्बर 2021 जो भारत के असाधारण राजपत्र संख्या 2761 तारीख 27 जुलाई 2021 और असाधारण राजपत्र संख्या 4941 तारीख 22 दिसम्बर 2021 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में तेलंगाना राज्य में हासन से चेरलापल्ली (तेलंगाना राज्य) तक एल.पी.जी के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल.) द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त असाधारण राजपत्र अधिसूचना की प्रतिया जनता को तारीख़ 19 जनवरी 2022 तक उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है की इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है की उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर हिन्दुस्थान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल.) में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 कि धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल.) पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

मंडल: घनपुर		जिला: वनपरथी		राज्य: तेलंगाना	
क्रमांक	मंडल का नाम	गाँव का नाम	सर्वे नं.	क्षेत्रफल	
				एकर्स	गुंटा
(1)	(2)	(3)	(4)	(5)	(6)
1	घनपुर	मानाजीपेट	269	00	01
			355	00	03
2	घनपुर	घनपुर	757	00	02

[फा. सं. आर-12031/2/2019-ओ.आर-आई/ई-31417]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 8th May, 2023

S.O. 826.— Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No.2969(E) dated the 22nd July 2021 and S.O.No. 5332(E) dated the 20th December 2021 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Extraordinary Gazette of India No. 2761 dated the 27th July 2021 and Extraordinary Gazette of India No. 4941 dated the 22nd December, 2021 the Central Government declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline in state of Telangana for transportation of LPG, from Hassan (Karnataka) to Cherlapalli (Telangana) Pipeline by Hindustan Petroleum Corporation Limited (HPCL).

And whereas copies of the said Extraordinary Gazette notification were made available to the public up to 19th January 2022.

And whereas the competent authority has under Sub-section (1) of Section 6 of the said Act submitted report to the Central Government.

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire Right of User therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Hindustan Petroleum Corporation Limited (HPCL), free from all encumbrances.

Hindustan Petroleum Corporation Limited (HPCL) shall be exclusively liable for any compensation in terms of Section 10 of the P&MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government for any matter relating to the pipeline.

SCHEDULE

Mandal: Ghanpur		Distt: Wanaparthy		State: Telangana	
SL. No.	Name of the Mandal	Name of the Village	Survey No.	Area	
				Acres	Guntas
(1)	(2)	(3)	(4)	(5)	(6)
1	Ghanpur	Manajipet	269	00	01
			355	00	03
2	Ghanpur	Ghanpur	757	00	02

[F. No. 12031/2/2019-OR-I/E-31417]

P. SOMAKUMAR, Under Secy.

नई दिल्ली, 8 मई, 2023

का.आ. 827.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 5337(अ) तारीख 20 दिसम्बर 2021 जो भारत के असाधारण राजपत्र संख्या 4946 तारीख 22 दिसम्बर 2021 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में तेलंगाना राज्य में हासन से चेरलापल्ली (तेलंगाना राज्य) तक एल.पी.जी के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल.) द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त असाधारण राजपत्र अधिसूचना की प्रतिया जनता को तारीख 18 जनवरी 2022 तक उपलब्द्ध करा दी गई थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है की इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है की उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर हिन्दुस्थान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल.) में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 कि धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल.) पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

मंडल: पेब्बेर		जिला: वनपरथी		राज्य: तेलंगाना	
क्रमांक	मंडल का नाम	गाँव का नाम	सर्वे नं.	क्षेत्रफल	
				एकर्स	गुंटा
(1)	(2)	(3)	(4)	(5)	(6)
1	पेब्बेर	कांचीरावपल्ली	151	00	02

[फा. सं. आर-12031/2/2019-ओ.आर-आई/ई-31417]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 8th May, 2023

S.O. 827.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No. 5337(E) dated the 20th Dec. 2021, issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Extraordinary Gazette of India No. 4946 dated the 22nd Dec. 2021 the Central Government declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline in state of Telangana for transportation of LPG, from Hassan (Karnataka) to Cherlapalli (Telangana) Pipeline by Hindustan Petroleum Corporation Limited (HPCL).

And whereas copies of the said Extraordinary Gazette notification were made available to the public up to 18th January 2022.

And whereas the competent authority has under Sub-section (1) of Section 6 of the said Act submitted report to the Central Government.

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire Right of User therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Hindustan Petroleum Corporation Limited (HPCL), free from all encumbrances.

Hindustan Petroleum Corporation Limited (HPCL) shall be exclusively liable for any compensation in terms of Section 10 of the P&MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government for any matter relating to the pipeline.

SCHEDULE

Mandal: Pebbair		Distt: Wanaparthy		State: Telangana	
SL. No.	Name of the Mandal	Name of the Village	Survey No.	Area	
				Acres	Guntas
(1)	(2)	(3)	(4)	(5)	(6)
1	Pebbair	Kanchiraopalli	151	00	02

[F. No. R-12031/2/2019-OR-I/E-31417]

P. SOMAKUMAR, Under Secy.

नई दिल्ली, 8 मई, 2023

का.आ. 828.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 5333(अ) तारीख 20 दिसम्बर 2021 जो भारत के असाधारण राजपत्र संख्या 4942 तारीख 22 दिसम्बर 2021 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में तेलंगाना राज्य में हासन से चेरलापल्ली (तेलंगाना राज्य) तक एल.पी.जी के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल.) द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त असाधारण राजपत्र अधिसूचना की प्रतिया जनता को तारीख 19 जनवरी 2022 तक उपलब्द्ध करा दी गई थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है की इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है की उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर हिन्दुस्थान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल.) में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 कि धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल.) पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

मंडल: राजापुर		जिला: महबूबनगर		राज्य: तेलंगाना	
क्रमांक	मंडल का नाम	गाँव का नाम	सर्वे नं.	क्षेत्रफल	
				एकर्स	गुंटा
(1)	(2)	(3)	(4)	(5)	(6)
1	राजापुर	ईडगाणपल्ली	283	00	10

[फा. सं. आर-12031/2/2019-ओ.आर-आई/ई-31417]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 8th May, 2023

S.O. 828.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No. 5333(E) dated the 20th Dec. 2021 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Extraordinary Gazette of India No. 4942 dated the 22nd Dec.2021 the Central Government declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline in state of Telangana for transportation of LPG, from Hassan (Karnataka) to Cherlapalli (Telangana) Pipeline by Hindustan Petroleum Corporation Limited (HPCL).

And whereas copies of the said Extraordinary Gazette notification were made available to the public up to 19th January 2022.

And whereas the competent authority has under Sub-section (1) of Section 6 of the said Act submitted report to the Central Government.

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire Right of User therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Hindustan Petroleum Corporation Limited (HPCL), free from all encumbrances.

Hindustan Petroleum Corporation Limited (HPCL) shall be exclusively liable for any compensation in terms of Section 10 of the P&MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government for any matter relating to the pipeline.

SCHEDULE

Mandal: Rajapur		Dist: Mahbubnagar		State: Telangana	
SL. No.	Name of the Mandal	Name of the Village	Survey No.	Area	
				Acres	Guntas
(1)	(2)	(3)	(4)	(5)	(6)
1	Rajapur	Edganpalli	283	00	10

[F. No. R-12031/2/2019-OR-I/E-31417]

P. SOMAKUMAR, Under Secy.

नई दिल्ली, 8 मई, 2023

का.आ. 829.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 5266(अ) तारीख 03 नवम्बर 2022, जो भारत के असाधारण राजपत्र संख्या 5047 तारीख 14 नवम्बर 2022, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में तेलंगाना राज्य में हासन से चेरलापल्ली (तेलंगाना राज्य) तक एल.पी.जी के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त असाधारण राजपत्र अधिसूचना की प्रतिया जनता को तारीख़ 06 दिसम्बर 2022 तक उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है की इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है की उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर हिन्दुस्थान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) में निहित होगा

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 कि धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्द कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

मंडल: मनोपाड		जिला: जोगुलांबा गडवाल		राज्य: तेलंगाना	
क्रमांक	मंडल का नाम	गाँव का नाम	सर्वे नं.	क्षेत्रफल	
				एकर्स	गुंटा
(1)	(2)	(3)	(4)	(5)	(6)
1	मनोपाड	कोरवीपाडु	121 (पक्का रास्ता)	00	04

[फा. सं. आर-12031/2/2019-ओ.आर-आई/ई31417]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 8th May, 2023

S.O. 829.— Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No.5266(E) dated the 03 November 2022, issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Extraordinary Gazette of India No.5047 dated the 14 November 2022, the Central Government declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline in state of Telangana for transportation of LPG, from Hassan (Karnataka) to Cherlapalli (Telangana) Pipeline by Hindustan Petroleum Corporation Limited (HPCL).

And whereas copies of the said Extraordinary Gazette notification were made available to the public up to 06 December 2022.

And whereas the competent authority has under Sub-section (1) of Section 6 of the said Act submitted report to the Central Government.

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire Right of User therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Hindustan Petroleum Corporation Limited (HPCL), free from all encumbrances.

Hindustan Petroleum Corporation Limited (HPCL) shall be exclusively liable for any compensation in terms of Section 10 of the P&MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government for any matter relating to the pipeline.

SCHEDULE

Mandal: Manopad		Dist: Jogulamba Gadwal		State: Telangana	
Sl. No.	Name of the Mandal	Name of the Village	Survey No.	Area	
				Acres	Guntas
(1)	(2)	(3)	(4)	(5)	(6)
1	Manopad	Korvipadu	121 (SH Road)	00	04

[F. No. R-12031/2/2019-OR-I/E-31417]

P. SOMAKUMAR, Under Secy.

नई दिल्ली, 8 मई, 2023

का.आ. 830.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 5269(अ) तारीख 03 नवम्बर 2022 जो भारत के असाधारण राजपत्र संख्या 5050 तारीख 14 नवम्बर 2022 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में तेलंगाना राज्य में हासन से चेरलापल्ली (तेलंगाना राज्य) तक एल.पी.जी के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त असाधारण राजपत्र अधिसूचना की प्रतिया जनता को तारीख़ 06 दिसम्बर 2022 तक उपलब्द्ध करा दी गई थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है की इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है की उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर हिन्दुस्थान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) में निहित होगा

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 कि धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्द कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

मंडल: वनपरथी		जिला: वनपरथी		राज्य: तेलंगाना	
क्रमांक	मंडल का नाम	गाँव का नाम	सर्वे नं.	क्षेत्रफल	
				एकर्स	गुंटा
(1)	(2)	(3)	(4)	(5)	(6)
1	वनपरथी	राजापेट	95(नाला)	00	04
			94(कच्चारास्ता)	00	02

2	वनपरथी	राजानगर	217	00	07
			314	00	03
3	वनपरथी	पेद्दागुडेम	300	00	04

[फा. सं. आर-12031/2/2019-ओ.आर-आई/ई-31417]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 8th May, 2023

S.O. 830.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No.5269(E) dated the 03 November 2022, issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Extraordinary Gazette of India No.5050 dated the 14 November 2022 the Central Government declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline in state of Telangana for transportation of LPG, from Hassan (Karnataka) to Cherlapalli (Telangana) Pipeline by Hindustan Petroleum Corporation Limited (HPCL).

And whereas copies of the said Extraordinary Gazette notification were made available to the public up to 06 December 2022.

And whereas the competent authority has under Sub-section (1) of Section 6 of the said Act submitted report to the Central Government.

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire Right of User therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Hindustan Petroleum Corporation Limited (HPCL), free from all encumbrances.

Hindustan Petroleum Corporation Limited (HPCL) shall be exclusively liable for any compensation in terms of Section 10 of the P&MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government for any matter relating to the pipeline.

SCHEDULE

Mandal: Wanaparthy		Dist: Wanaparthy		State: Telangana	
Sl. No	Name of the Mandal	Name of the Village	Survey No.	Area	
				Acres	Guntas
(1)	(2)	(3)	(4)	(5)	(6)
1	Wanaparthy	Rajapet	95(Nala)	00	04
			94(Mud Road)	00	02
2	Wanaparthy	Rajanagar	217	00	07
			314	00	03
3	Wanaparthy	Peddagudem	300	00	04

[F. No. R-12031/2/2019-OR-I/E-31417]

P. SOMAKUMAR, Under Secy.

नई दिल्ली, 8 मई, 2023

का.आ. 831.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 5268(अ) तारीख 03 नवम्बर 2022, जो भारत के असाधारण राजपत्र संख्या 5049 तारीख 14 नवम्बर 2022, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में तेलंगाना राज्य में हासन से चेरलापल्ली (तेलंगाना राज्य) तक एल.पी.जी के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त असाधारण राजपत्र अधिसूचना की प्रतिया जनता को तारीख़ 06 दिसम्बर 2022 तक उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है की इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है की उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर हिन्दुस्थान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) में निहित होगा

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 कि धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल.) पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

मंडल: पेद्दामंदाड़ी		जिला: वनपरथी		राज्य: तेलंगाना	
क्रमांक	मंडल का नाम	गाँव का नाम	सर्वे नं.	क्षेत्रफल	
				एकर्स	गुंटा
(1)	(2)	(3)	(4)	(5)	(6)
1	पेद्दामंदाड़ी	विराइपल्ली	53	00	05
			44	00	32
			42	00	02
			40	00	01

[फा. सं. आर-12031/2/2019-ओ.आर-आई/ई-31417]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 8th May, 2023

S.O. 831.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No.5268(E) dated the 03 November 2022, issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Extraordinary Gazette of India No.5049 dated the 14 November 2022, the Central Government declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline in state of Telangana for transportation of LPG, from Hassan (Karnataka) to Cherlapalli (Telangana) Pipeline by Hindustan Petroleum Corporation Limited (HPCL).

And whereas copies of the said Extraordinary Gazette notification were made available to the public up to 06 December 2022.

And whereas the competent authority has under Sub-section (1) of Section 6 of the said Act submitted report to the Central Government.

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire Right of User therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Hindustan Petroleum Corporation Limited (HPCL), free from all encumbrances.

Hindustan Petroleum Corporation Limited (HPCL) shall be exclusively liable for any compensation in terms of Section 10 of the P&MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government for any matter relating to the pipeline.

SCHEDULE

Mandal: Peddamandadi		Dist: Wanaparthy		State: Telangana	
Sl. No	Name of the Mandal	Name of the Village	Survey No.	Area	
				Acres	Guntas
(1)	(2)	(3)	(4)	(5)	(6)
1	Peddamandadi	Veeraipalli	53	00	05
			44	00	32
			42	00	02
			40	00	01

[F. No. R-12031/2/2019-OR-I/E-31417]

P. SOMAKUMAR, Under Secy.

नई दिल्ली, 8 मई, 2023

का.आ. 832.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 5267(अ) तारीख 03 नवम्बर 2022, जो भारत के असाधारण राजपत्र संख्या 5048 तारीख 14 नवम्बर 2022, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में तेलंगाना राज्य में हासन से चेरलापल्ली (तेलंगाना राज्य) तक एल.पी.जी के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त असाधारण राजपत्र अधिसूचना की प्रतिया जनता को तारीख़ 06 दिसम्बर 2022 तक उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है की इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है की उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर हिन्दुस्थान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) में निहित होगा

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 कि धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्द कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

मंडल: केशमपेट		जिला: रंगारेड्डी		राज्य: तेलंगाना	
क्रमांक	मंडल का नाम	गाँव का नाम	सर्वे नं.	क्षेत्रफल	
				एकर्स	गुंटा
(1)	(2)	(3)	(4)	(5)	(6)
1	केशमपेट	इप्पालपल्ली	100	00	07
2	केशमपेट	संगम	129	00	04
			130	00	04
3	केशमपेट	एक्लासखानपेट	139	00	10
			145	00	16
			147/83	00	13
			147/5	00	38
			147/11	00	34
			147/14	00	07
			147/82	00	14
			147/4	00	08
			146	00	04
मंडल: महेश्वरम		जिला: रंगारेड्डी		राज्य: तेलंगाना	
1	महेश्वरम	सुभानपुर	234/1	00	13
			232/11	00	18
			232/10	00	07

			165	00	04
			155/2	00	03
			167	00	06
			228	00	02
			224	00	05
			210	00	14
			211	00	06
			209	00	08
			208	00	12
			202	00	07
			11	00	30
			15	00	26
			74	00	18
			61	00	02
2	महेश्वरम	कलवकोल	203	01	11
			210	00	25
			215	00	11
			202	00	07
			201	00	12
			216	00	09
			200	00	17
			54	00	02
			55	00	05

[फा. सं. आर-12031/2/2019-ओ.आर-आई/ई-31417]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 8th May, 2023

S.O. 832.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No.5267(E) dated the 03 November 2022, issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Extraordinary Gazette of India No.5048 dated the 14 November 2022, the Central Government declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline in state of Telangana for transportation of LPG, from Hassan (Karnataka) to Cherlapalli (Telangana) Pipeline by Hindustan Petroleum Corporation Limited (HPCL).

And whereas copies of the said Extraordinary Gazette notification were made available to the public up to 06 December 2022.

And whereas the competent authority has under Sub-section (1) of Section 6 of the said Act submitted report to the Central Government.

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire Right of User therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Hindustan Petroleum Corporation Limited (HPCL), free from all encumbrances.

Hindustan Petroleum Corporation Limited (HPCL) shall be exclusively liable for any compensation in terms of Section 10 of the P&MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government for any matter relating to the pipeline.

SCHEDULE

Mandal: Keshampet		Dist: Rangareddy		State: Telangana	
Sl. No	Name of the Mandal	Name of the Village	Survey No.	Area	
				Acres	Guntas
(1)	(2)	(3)	(4)	(5)	(6)
1	Keshampet	Ippallapally	100	00	07
2	Keshampet	Sangam	129	00	04
			130	00	04
3	Keshampet	Eklaskanpet	139	00	10
			145	00	16
			147/83	00	13
			147/5	00	38
			147/11	00	34
			147/14	00	07
			147/82	00	14
			147/4	00	08
			146	00	04
Mandal: Maheswaram		Dist: Rangareddy		State: Telangana	
1	Maheswaram	Subhanpur	234/1	00	13
			232/11	00	18
			232/10	00	07
			165	00	04
			155/2	00	03
			167	00	06
			228	00	02
			224	00	05
			210	00	14
			211	00	06
			209	00	08
			208	00	12
			202	00	07
			11	00	30
			15	00	26
			74	00	18
			61	00	02
2	Maheswaram	Kalwakole	203	01	11
			210	00	25

			215	00	11
			202	00	07
			201	00	12
			216	00	09
			200	00	17
			54	00	02
			55	00	05

[F. No. R-12031/2/2019-OR-I/E-31417]

P. SOMAKUMAR, Under Secy.

नागर विमानन मंत्रालय

नई दिल्ली, 9 मई, 2023

का.आ. 833.—इस मंत्रालय की दिनांक 10.09.2018 की अधिसूचना **सं. एवी.24011/13/2017-एएआई-एमओसीए** के क्रम में, केन्द्रीय सरकार द्वारा भारतीय विमानपत्तन प्राधिकरण में सदस्य (योजना) के रूप में कार्यरत श्री अनिल कुमार पाठक के कार्यकाल को 20.08.2023 से 30.09.2023 तक, जो उनकी सेवानिवृत्ति की तिथि है, अथवा अगले आदेश होने तक, जो भी पहले हो, एतद्वारा बढ़ाया जाता है।

[फा. सं. AV-24011/3/2023-AAI-MOCA]

जयंतो चक्रवर्ती, निदेशक

MINISTRY OF CIVIL AVIATION

New Delhi, the 9th May, 2023

S.O. 833.—In continuation of this Ministry's Notification **No.AV.24011/13/2017-AAI-MOCA dated 10.09.2018**, the Central Government hereby extends the tenure of Shri Anil Kumar Pathak as Member (Planning), Airports Authority of India beyond 20.08.2023 till 30.09.2023, i.e. the date of his superannuation, or until further orders, whichever is earlier.

[F. No. AV-24011/3/2023-AAI-MOCA]

JOYANTA CHAKRABORTY, Director

श्रम और रोजगार मंत्रालय

नई दिल्ली, 16 मई, 2023

का.आ. 834.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स दिल्ली इंटरनेशनल एयरपोर्ट लिमिटेड, नई दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और श्री अश्वनी गोयल, दिल्ली के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली के पंचाट (रिफरेन्स न. -2/2013) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.05.2023 को प्राप्त हुआ था।

[सं. जेड -16025/04/2023 -आई आर(एम)-24]

डी. के. हिमांशु, अवर सचिव

MINISRTY OF LABOUR AND EMPLOYEMENT

New Delhi, the 16th May, 2023

S.O. 834.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 2/2013) of the Central Government Industrial Tribunal

cum Labour Court-1, New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to M/s Delhi International Airport Ltd., New Delhi and Shri Ashwani Goel, Delhi which was received along with soft copy of the award by the Central Government on 16.05.2023.

[No. Z- 16025/04/2023-IR(M)-24]

D. K. HIMANSHU, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT DELHI – 1

NEW DELHI

Present: Justice VIKAS KUNVAR SRIVASTAVA (Retd.) Presiding officerCGIT, Delhi-1

In I.D. No. 2/2013

Shri Ashwani Goel
144, Vivekananda Puri
Delhi-110007 ….Claimant

Versus

M/s Delhi International Airport Ltd.
New Udaan Bhawan,
Opposite Terminal-3,
IGI Airport, New Delhi-110037. …Management

Shri Rajiv Agarwal, A/R for the claimant.
Shri Dig Vijay Rai, A/R for the management.

AWARD

PROLOGUE

1. Instant matter in hand, the industrial dispute case number 02/2013 Ashwani Goel V. M/S Delhi International Airport Private Limited, which was received to this tribunal on reference by the appropriate Government dated 13.12.2012, once had been finally decided on merit after hearing the parties to the dispute and accordingly an award dated 02.07.2019 was passed in favor of the claimant workman (who shall hereinafter be called as the workman only). The reference of the industrial dispute scheduled in the letter of the appropriate Government is that,

> **"whether the action of the management of Delhi International Airport Private Limited in dismissing the services of Shree Ashwani Goel w.e.f. 19.05.2010 is legal and justified? What relief the workman is entitled to?**

This tribunal answered the reference in terms that, the action of the management in terminating the services of the claimant/workman w.e.f. 19.05.2010 can not be held to be legal and justified inasmuch the dismissal order dated 19.05.2010 suffers from procedural impropriety and moral standards. The tribunal further held the workman entitled to reinstatement into services on the same post with 60% back wages and all consequential benefits. The claimant/workman was also granted litigation cost Rs.10,000 to be paid by the management. The management assailed the Award dated 02.07.2019 in writ petition number WP(C) 11157 M/S Delhi International Airport Ltd. v. Ashwani Goel, before the Hon'ble High Court of Delhi. The writ petition above stated along with another connected writ petition no WP (C) 8215/2019 M/S Delhi International Airport Limited V. Ashwani Goel was disposed of, the impugned award of the tribunal dated 02.07.2019 set aside and the matter remanded to the tribunal for a decision on merits concerning the alleged misconduct said to have been committed by Mr. Goel vide the judgement of the court dated 05.07.2021. The tribunal is also directed to conclude its proceedings at the earliest, though not later than six months, from the date of receipt of a copy of the judgement. The tribunal which was running vacant of the presiding officer, received the copy of the judgement on 11.01 2022.

2. The matter could have been presented before the then presiding officer in charge of the CGIT 1 Delhi on 10.05.2022. On 25.07.2022 the tribunal provided opportunity to the management to lead evidence before the it as directed by the Honorable high court, but when they again failed to do so on the next adjourned hearing also the tribunal passed order to the following effect-

"The matter stands posted today for management evidence and a last opportunity for the purpose was granted by the order dated 25th July, 2022.

The Ld. A/R for the claimant was present but none appeared on behalf of the management nor their witness. The Honourable High Court in their order dated 05th July 2021, have directed to dispose of the matter within six month from the date of receipt of the order. Accordingly on the previous date the matter was taken up. It is not understood, why the management who was contesting the matter before the Honourable High Court would remain absent with the witness today. Considering the situation they right of the management to produce evidence for proving the charges is here by closed. Call the matter 13.09.2022.

At this juncture the Ld. A/R for the claimant moved an application invoking the provision of section 17(B) of the ID Act. For the absence of the management copy of the application could not be served on them. In this application the claimant has stated that despite the direction given by the Honourable the High Court the management is not praying the salary to the claimant and only for few months it was paid. Now, an amount of Rs.1,94,832.00 is due to be paid to him for the period January 2022 to August 2022. A calculation chart sheet has been attached with the petition.

For the absence of the management it is felt proper to issue a notice to the management for filing reply to this petition. Office is directed to send a notice to the management giving opportunity to file reply to the 17 (B) application filed by the claimant. Call the matter and fixed for reply of the consideration".

3. On 21.08.2022 the CGIT- I, could be manned with its regular presiding officer, before whom also the management continued to remain absent. Therefore on 13.09.2022, the management was ordered to be served with notice of the next date 26.09.2022. On the date of adjourned hearing the management was though represented but did not produce any evidence, hence following order was passed-

"Pursuant to the notice issued on 26.09.2022. Ld. Counsel Sh. Ramesh Thakur appeared on behalf of the opposite party management.

This is noteworthy here that numberous opportunities have already been given to the management for evidence and even last opportunity was ordered on 25.07.2022 even then his absence continued on 17.08.2022. This is further revealed that the High Court vide order 05.07.2022 has directed the tribunal to dispose of the matter within period of six months. Much more time has been elapsed even from the period in which the direction of the High Court is with regard to the expeditious disposal of the case. Ld. Counsel appeared but, seems that he is not read for further proceeding in the case today. On his request with a view to decide the case on merit expeditiously as sooner as possible, the time has again being granted for one week and not more. Ld. Counsel for the management of the opposite party may produce and adduce his documentary and an oral evidence if any and to ensure submission of argument, in case no evidence is required. To put up on 10.10.2022, for further proceeding and order in terms of the direction given by the Hon'ble High Court."

4. Ultimately the management filed the affidavit of its witness Shree Yudh vir Singh (the enquiry officer in domestic inquiry) as the statement of examination in chief and sought adjournment to produce the witness for cross examination. The said witness was produced to prove the misconduct alleged to have been committed by the workman, as directed in the judgement of High Court remanding the matter to the tribunal. The witness could have been produced before the tribunal on 15.11.2022 only, for the cross examination. After recording his oral evidence, the evidence of the management was closed on its behest. The tribunal fixed 23.11.2022 for arguments. Arguments of the respective parties have finally been heard and concluded on 09.01 2023. Matter reserved for delivering judgement and award.

5. On the cost of repetition it would be relevant to state that, there were three connected writ petitions before the Hon'ble High Court of Delhi in the matter of M/S Delhi International Airport Ltd (which shall herein be called as the DIAL only). viz. WP(C) 8215/2019, WP(C) 11157/2019 both filed by DIAL and WP(C) 5854/2020 filed by the claimant/workman. The first petition of DIAL, WP(c)8215/2019, assailed the interim orders passed by the tribunal in the instant industrial dispute case 02/2013 dated 11.03 2019 and dated 03.06.2019. This writ petition was pending for disposal, meanwhile the final award dated 02.07.2019 was passed by the tribunal which gave rise to the rest of the two petitions, namely, WP(C) 11157/2019 by DIAL and WP(C) 5854/2020 by the claimant / workman. The claimant/ workman assailed the award to the extent it limited the back wages to 60% of the outstanding amount. Hon'ble High Court consolidating all these three petitions disposed of the two petitions of DIAL and dismissed the petition of the claimant/workman vide judgement dated 05.07.2021. The para 19 of the judgement concludes the matter with direction as to the remand to the tribunal.

To understand the scope and extent of hearing and deciding afresh the matter as directed by the tribunal, the said para 19 is carved out from the judgement to reproduce here under for easy reference-

"19. Thus, W.P. (C) 8215/2019 and 11157/2019 are disposed of with the following directions.

i. The impugned award i.e. award dated 02.07.2019 is set aside.

ii. The matter is remanded to the Tribunal for a decision on merits concerning the alleged misconduct said to have been committed by Mr. Goel.

iii. The Tribunal will allow DIAL to lead evidence qua the alleged misconduct. Mr. Goel will also be given an opportunity in that regard.

iv. Parties will have the right to cross-examine each other's witnesses if recourse is taken to this route.

v. Mr. Goel will be paid his last drawn wages or minimum wages, whichever is higher, from 02.07.2019, i.e. the date of the impugned award. The money paid will not be recouped from Mr. Goel, irrespective of whether or not the final decision rendered by the Tribunal is in his favour. This direction is being issued in furtherance of powers vested in this Court, under Article 226 of the Constitution. [See order dated 29.01.2021, passed by this Court, in W.P. (C) 6128/2017; upheld by the Division Bench of this Court, vide order dated 16.03.2021, passed in LPA 112/2021]. It is made clear that the aforesaid remuneration will be paid to Mr. Goel, by DIAL, till the final disposal of the matter, by the Tribunal."

vi. Since the remand of the matter has taken place to give DIAL an opportunity to prove the charge levelled against Mr. Goel, it is mulcted with costs which are quantified at Rs.5,00,000/-.

vii. Rs. 15,00,000/- deposited in this Court by DIAL, alongwith the accrued interest will be remitted to the Tribunal for payments and costs required to be made under clause (v) and (vi) above. In case, the surplus amount is left, the Tribunal will retain the same, and the amount retained by it [alongwith accrued interest], shall abide by the final decision rendered in the matter. In line with this direction, in the interregnum, the Tribunal will invest the money in an interest-bearing fixed deposit, maintained with a nationalized bank.

viii. The Tribunal will conclude its proceedings at the earliest, though not later than six (6) months, from the date of receipt of a copy of this judgment.

ix. The interim order dated 10.12.2019, passed in W.P. (C) 11157/2019, shall stand vacated.

20. Given the aforesaid, the writ petition filed by Mr. Goel, i.e., W.P. (C) 5854/2020, is dismissed.

21.Needless to add, any observations made hereinabove will not come in the way of the Tribunal trying the case on merits."

Scope and extent of taking additional evidence and deciding the matter afresh

6. Before assailing the award of this tribunal in the writ the DIAL had already approached the high court in WP(C) 8215/2019 assailing two consecutive orders of the tribunal dated 11.03.2019 & 03.06.2019. The former pertains to the issue number1 & 2. relating to whether the claimant is workman as defined in section 2(s) of the I.D. Act, 1947 and,whether the domestic enquiry conducted by the management is just,fair and proper? Consequent upon the non production of management witness either enquiry officer or any one else actively associated with domestic enquiry the issue was decided against the management holding the enquiry against the claimant/workman vitiated. Later order dated 28.05.2019 / 03.06.2019, of the tribunal is related to the refusal to grant opportunity to the management to adduce additional evidence after the issue no. 2 was decided finally. During the pendency of the above writ petition the tribunal passed the final award which too was challenged in separate writ petition. Disposing the duo honorable the court observed and recorded finding to the following effects in para 15, 15.6 and 15.8 of its judgement-

"15. Given the aforesaid facts and circumstances, the question that arises for consideration is, firstly, was there any residuary power left in the Tribunal to call upon DIAL to lead evidence on the merits of the case. Mr. Agarwal has relied upon the judgement in Shambu Nath Goyal Case and Lakshmidevamma Case to contend that, once the Tribunal holds that the enquiry is vitiated then, the management can be allowed to lead evidence qua the alleged misconduct only if a plea to that effect finds a place in the written statement. On the other hand, Mr. Agnani argued that leeway was, indeed, available to the Labour Court/Tribunal, if the facts and circumstances required such an approach to be adopted."

"15.6. This approach was adopted by a Single Judge of this Court in Delhi Transport Corporation15 Case, wherein it was, inter alia, held that Labour Court had unfettered power to direct the management to lead additional evidence at any stage of the hearing before it is finally concluded, if it is considered just and proper to meet the ends of justice."

"15.8. Having regard to the aforementioned guiding principles, in my opinion, this is a case which calls for interference as the Tribunal failed to notice, [I must emphasize completely] that it had jurisdiction in the matter to, at least, consider as to whether or not DIAL should be allowed to lead evidence concerning the alleged misconduct said to have been committed by Mr. Goel. The Tribunal, in my opinion, failed to comprehend the true ratio of the view rendered by the majority in Lakshmidevamma Case."

7. In the back drop of aforementioned directions of the honorable court, while the matter is to be decided afresh by the tribunal, it must have to keep in the mind what is the case of claimant/workman set forth in the statement of claim and the written statement in defense of the management, because they form the respective pleading of the contesting parties to the industrial dispute giving rise to the issues involved therein for adjudication. This will also be important to see which of the parties has burden of proof of which fact in issue and what type of evidence is required to discharge such burden successfully. For this purpose it will further be noted that the evidence of the management is in two steps, first that was recorded prior to the passing of the award dated 02.07.2019 impugned and set aside in the aforesaid writ petition WP(C) 11157/2019 by the high court on the ground of not exercising the power and jurisdiction vested in the tribunal to allow the management's prayer to provide opportunity to lead additional evidence in discharge of its burden of proving the alleged misconduct on the part of the claimant/workman. Second step of the recording the evidence of management's witness is consequent to the direction of the high court as to the remand to hear and decide the matter after taking the additional evidence of the management witness in terms of the remand order. This would also be equally important to note that none of the finding arrived at by the tribunal while deciding the issue number 1 relating to the claimant being workman under the I.D. Act, is interfered or assailed by the honorable high court in its judgement and order as to the remand of matter to the tribunal, vide the judgement dated 05.07.2021.

Factual matrix

8. The case of the claimant/workman is that, he joined services with the management as Air Side Monitoring Inspector on 19.07.2007 vide appointment letter dated 04.07.2007 and his last drawn wages were Rs. 22079/- per month. He had ever been diligent in performing duties as such. On 17.05.2008 while he was performing his duties in the night shift, he found the aircraft of Indian Airlines unattended and apprised about the same to his senior officers but to no heed. On inspection of the vehicle it was found that vehicle permit in original was not displayed and on demand the officials of Indian Airlines showed photocopy of the permit which was already expired. When he asked Shree Babu Rao and Goverdhan Lal, officials to show the original permit before using the vehicle, they snatched photocopy from him and caused grievous hurt on his face resultantly blood started to ooze out from his nose and mouth. He was taken by his colleagues for medical room of the International Terminal where he was given medical aid. Shree Virendra Singh, the manager, Apron Control asked him not to lodge any F.I.R. When he insisted for the action against the said officials of the Indian Airlines, he was assigned the job of painting and marking of the airside operations. He then reported the matter through e mail to higher authorities viz. Head H.R., CEO and Chairman, annoyed there by Shree Virendra Singh and others started harassing him. Subsequent there to the management adopting vindictive attitude, issued a memo dated 30.06.2009 which was duly replied by him. Thereafter, a charge sheet was issued falsely which too was duly replied. The enquiry was conducted un fairly without providing him copy of the charge sheet, list of documents and list of witnesses despite his demand vide letter dated 30.09.2009. The enquiry officer acted at the behest of the management and gave enquiry report suiting to them against the claimant. Ultimately services of the claimant were terminated by the management vide order dated 19.05.2010. Demand notice dated 29.04.2011 though served on the management but they did not respond conciliation proceedings were initiated but the same also failed due to the adamant and non cooperative attitude of the management. Claimant pleads that he is continuing unemployed since the date of his termination from services and prayed for the relief of reinstatement with continuity in service and other consequential benefits there to. He has claimed the costs of litigation also.

9. Countering the claim of the claimant/workman in their written statement the management has pleaded that the claimant was an unwilling and non performer worker and Airport Regulatory Authority had also fined him Rs 100/-for negligence towards his duties. Charge sheet regarding unauthorized absence, habitual absence or overstaying beyond the sanctioned leave etc. was issued against him. The enquiry officer had given ample opportunities to him in order to prove his innocence, but instead of cooperating in the enquiry his behavior was aggressive and violent. The claimant did not participate in the enquiry despite the enquiry officer given him seven opportunities to defend himself. It is asserted that the enquiry was conducted properly and fairly and

services of the claimant was terminated after following due process of law and principle of natural justice.

ISSUES

10. On the basis of assertions and denial made by the parties to the industrial dispute regarding the claim of the workman and adversarial defense by the management in their respective pleadings, this tribunal framed following issues for adjudication of the reference on 14.03.2013, which are as under-

"14.03.2013

Present Shri Pradeep Kaushik, A/R For the claimant.

Shri M.L.Sharma, A/R for the management.

W.S. filed. Copy given to Shri Kaushik on perusal of pleading, following issues are settled :

(1) Whether the claimant is a workman within the meaning of section 2(s) of the ID Act ?

(2) Whether the enquiry conducted by the management was just, fair and proper ?

(3) Whether punishment awarded to the claimant commensurate with his misconduct ?

(4) As in terms of reference.

Issue No.1 & 2 are treated as preliminary issue. Adjourned for evidence of parties on this preliminary issue for 18/04/2013 claimant to conclude first.

11. Out of the aforesaid four issues, issue No.'1' was worth to be decided preliminarily being issue of law based on mostly admitted facts therefore the same was decided by this tribunal through a detailed order after hearing the parties on merit. The issue no. 1 pertains the status of claimant as a workman as well as that of the management, an industry and as such touches the jurisdiction of the tribunal to proceed further for adjudicating the industrial dispute as in reference by the appropriate government in the scheme and procedures under the I.D. Act, 1947. The detailed order of the tribunal is given here under -

"Issue no.1

As per pleading of the parties and evidence adduced on record, it is manifest that there exited relationship of employer-employee between the parties, inasmuch the claimant was appointed as airside monitoring Inspector by the Management vide appointment letter dated 4/7/2007 and he worked under the management till his service were terminated vide order dated 19/5/2010.Though the management has taken a plea that the claimant is not the "workman" as provided under section 2(s) of the ID Act. as he was performing the work of "supervisor" .but no evidence in the respect has been adduced by the Management to show as to how claimant herein does not fall within the definition of "workman". MW1 Shri Shiv Nath Singh –sole witness of the management admitted that there is no job description mentioned in the appointment letter of the claimant. While admitting that no letter was ever given to the claimant the he will perform supervisory or managerial duties, he clarified that the job of the claimant was to watch & ward the runway and airside. It is thus, evident from the record that the claimant was not supervisory or administrative post, requiring him to perform only administrative duties. As such, contention of the management that the claimant does not fall under the definition of "workman" as provided under section 2(S) of the ID Act, is not tenable. This issue is, therefore, decided in favour of the claimant and against the management".

12. The above order, deciding the preliminary issue as to the jurisdiction of the tribunal over the matter in lis before it is a substantive order, though interlocutory, but in nature, an order passed in furtherance of the proceeding. Subsequent to the passing of which the tribunal emanated it's competence to exercise jurisdiction conferred on it under the I.D. Act.

13. The learned authorized representative for the management vehemently opposed the argument submitted by the claimant's authorized representative Shri Rajiv Agarwal, to the effect that the decision of the tribunal dated 11.03.2019 on issue number 1 has attained finality and even acquiesced by the management in the superior court of law which kept the same un interferedq. He further added, the decision of the tribunal over issue no. 1, need not to be interfered or reconsidered, despite setting aside the final award by the high court with remand of the matter for deciding afresh. The learned authorized representative termed the order dated 11.03.2019 deciding the said issue number 1, an 'interim order' passed by the tribunal at an interim stage of

proceedings before passing of the final award and therefore, merged in the order of the high court which set aside that final award dated 02.07.2019 with remand of the matter to the tribunal to hear and decide the same afresh.

14. DIAL filed two Writ Petitions i.e., W.P (C) 8215/2019 and W.P (C) 11157/2019. In W.P(C) 8215/2019 the interim order dated 11/03/2019 & 3/6/2019 were challenged. Whereas in W.P (C) 11157/2019 the final award passed by the tribunal dated 02/07/2019 was challenged. This would be noteworthy at this stage that, vide order dated 11/03/2019 issue No. 1 & issue No. 2 both were decided. On the cost of repetition, it further would be important to contend that issue No.1 is about the jurisdiction of the tribunal over the matter, if the claimant is a 'workman ?, as provided under Section 2 (S) of the I.D. Act. Issue No.2 is with regard to the genuineness of enquiry proceeding conducted by the management. The tribunal by composite order decided both the issues in favor of the claimant on 11/03/2019. Tribunal found, while deciding the issue no.2 with regard to the genuineness of enquiry proceeding that there was no evidence on record as to the appointment of enquiry officer Sh. Yudh Vir Singh. Sh.Yudh Vir Singh himself was not produced in witness box by the management to prove enquiry proceeding and enquiry report before the tribunal and/or to rebut the specific allegations of the workman as aforesaid. The management not only failed to produce the enquiry officer Sh. Yudh Vir Singh but also anybody else who was actively associated with the domestic enquiry. The tribunal reached at the conclusion that non examination of enquiry officer or any other official who was associated with the enquiry proceedings, is fatal to the case of the management. So fair as proving of enquiry report and it's procedure is concerned. Vide order dated 11/03/2019 this tribunal held that the management has failed to prove the enquiry proceeding and enquiry report against the workman. Resultantly the domestic enquiry conducted against the workman becomes vitiated. On the same day the management moved another application before the tribunal for giving opportunity to examine the enquiry officer and prove the enquiry report. The said application was rejected being devoid of merits vide order dated 28th May 2019/ 3rd June 2019. From the above facts the position emerged from the record that in W.P (C) 8215/2019 M/s Delhi International Airport V. Ashwani Goel, the challenge by the management was against the part of the order related to decision on issue No. 2 and the subsequent rejection of application seeking opportunity to produce the witness for proving the enquiry proceeding and the report against the present claimant. Hon'ble High Court in its order dated 5th July 2021 has recorded its observation in Para 9.1, 9.2 & 9.3.

> ***9.1*** *The Tribunal, thus, not only held that Mr. Goel was a workman under the meaning of Section 2 (s) of the I.D. Act but also went on to rule that the enquiry conducted against Mr. Goel was not fair, as there was a violation of the principles of natural justice since the relevant documents and list of witnesses was not furnished to him, and he was not paid subsistence allowance during the period of suspension. The Tribunal also went on to state that, DIAL had failed to prove that the enquiry proceedings were conducted, as no one associated with the enquiry or in the making of the report, had been examined.*
>
> ***9.2*** *Pertinently, on that very date, i.e., 11.03.2019, an application was moved on behalf of DIAL stating that, since the matter was at a preliminary stage and was listed on 22.04.2019, and therefore, an opportunity be given to "prove the enquiry and examine the enquiry officer". A short reply was filed on behalf of Mr. Goel to the said application in opposition to the prayer made therein, principally, on the ground that, such permission could not be granted at the stage at which the matter was positioned.*
>
> ***9.3*** *The order sheet of 22.04.2019 shows that arguments on DIAL's aforementioned application dated 11.03.2019 were heard. Besides this, the order sheet of that date i.e., 22.04.2019, also adverts to the fact that "final arguments" had also been heard in the matter; parties were, however, given an opportunity to file judgments and the matter was reserved for "orders/award". Pertinently, the proceedings sheet dated 22.04.2019 did not refer to any further date. However, on 28.05.2019, the matter was listed before the Tribunal. Since parties were unaware of this date, they went unrepresented on that date. The Tribunal, however, dismissed DIAL's application dated 11.03.2019, via its order dated 28.05.2019, and once again listed the matter for final arguments on 03.06.2019. It appear that, on 03.06.2019, final arguments were heard once again in the matter, whereupon it was reserved for orders/award. As noted above, the impugned award was passed on 02.07.2019 with a direction that same be sent to the appropriate government for publication under Section 17 of the I.D. Act. The impugned award was published on 08.07.2019.*

15. From the factual matrix as gathered from the above stated Paras, carved out from the judgment of Hon'ble High Court dated 5th July 2021, the context appears to be the non affording opportunity to the DIAL by the tribunal to prove enquiry proceeding, report and the charge of misconduct labelled upon the workman in the enquiry proceeding conducted against him. In the W.P (C) 8215/2019 the decision of the tribunal on issue no.1

is neither assailed by the management nor the Hon'ble High Court has interfered with the finding of the tribunal in the impugned order dated 11/03/2019.

16. Learned Authorized Representative arguing on behalf of the DIAL placed reliance upon the judgment of the High Court of Delhi in ***'Sarita Parwal V. Pankaj Prakash 2010 SCC Online Delhi 1251'*** in support of his contention that, it is a well settled principle of law that interim order merges with final order/judgment. In the case of Sarita Parwal (Supra) it is held,'i*t is settled law that if an interim order is passed and after passing of an interim order a final judgment is passed, the interim order merges into the final order and if an appeal is preferred the order of the trial court merges into the order of the appealing court'.* Learned AR further placed reliance on the judgment of Apex Court in the case of '***Kalabharti Advertising V. Hemant Vimalnath Narichania & Others (2010) 9 SCC 437'.*** It is held by the supreme court in Para-15 as follows: -

> ***Para-15*** *No litigant can derive any benefit from the mere pendency of a case in a Court of Law, as the interim order always merges into the final order to be passed in the case and if the case is ultimately dismissed, the interim order stands nullified automatically. A party cannot be allowed to take any benefit of his own wrongs by getting an interim order and thereafter blame the Court. The fact that the case is found, ultimately, devoid of any merit, or the party withdrew the writ petition, shows that a frivolous writ petition had been filed. The maxim "Actus Curiae neminem gravabit", which means that the act of the Court shall prejudice no-one, becomes applicable in such a case. In such a situation the Court is under an obligation to undo the wrong done to a party by the act of the Court.*
>
> *Thus, any undeserved or unfair advantage gained by a party invoking the jurisdiction of the Court must be neutralised, as the institution of litigation cannot be permitted to confer any advantage on a party by the delayed action of the Court. (vide:* ***Dr. A.R. Sircar v. State of Uttar Pradesh & Ors., 1993 Supp. (2) SCC 734; Shiv Shanker & Ors. v. Board of Directors, Uttar Pradesh State Road Transport Corporation & Anr., 1995 Supp. (2) SCC 726; the Committee of Management, Arya Inter College, Arya Nagar, Kanpur & Anr. v. Sree Kumar Tiwary & Anr., AIR 1997 SC 3071; GTC Industries Ltd. v. Union of India & Ors., AIR 1998 SC 1566; and Jaipur Municipal Corporation v. C.L. Mishra, (2005).***

17. Before application of the aforesaid case laws cited by the learned AR, Shri Dig Vijay Rai, for the management, this would be pertinent to state that the present case is an Industrial Dispute case registered by the tribunal on receiving reference under Section 10 of the I.D. Act from the appropriate Government. The claim of the workman and reference of the Industrial Dispute by the appropriate government to the tribunal still exists. The award impugned in the W.P (C) 11157/2019 is set aside for deciding afresh the matter in accordance with the direction given by the High Court in the order of remand. The industrial dispute case is neither dismissed nor is struck off, rather the award is set aside on the ground of not providing the opportunity to prove the enquiry proceeding and the charges against the claimant/workman. The portion of order dated 11/03/2019 relating to the decision of the tribunal over issue No.2 by which the enquiry proceeding was held vitiated was challenged in earlier W.P(C) 8215/2019. Rest of the decision in order dated 11/03/2019 relating to issue No.1 is left undisturbed. Unlike the facts of the case referred by learned AR in the above two cited cases, in the present case , before the High Court the impugned order dated 11.03.2019 of the tribunal got challenged in writ jurisdiction under Articles 26/227 of the Constitution of India for judicial review and not in appeal.,therefore the above two cited cases, with due regard, are not applicable in the fact, and circumstances of the present case.

18. The part of the order dated 11.03.2019 was assailed in the writ jurisdiction of the high court and the finding of the tribunal as to the genuineness of the enquiry proceeding and the validity of the enquiry report was in issue before the high court for judicial review. The judicial review under the Articles 226 and 227 of the Constitution of India is quite different from the appellate jurisdiction of a court of appeal, where the finding of the appellate court merges with that of the trial court.

19. Moreover the order dated 11.03.2019 is an interlocutory order which substantively decided the jurisdictional fact in issue no. I also. Such order though interim but are quite different from other ad interim orders passed by the courts for example, those prohibitory orders under order 39 of the CPC to be in effect till the pendency of suits or till further order. Such interlocutory order as in the present case was necessary to be passed by the tribunal in order to emanate power to exercise jurisdiction over the matter. The tribunal acted on its decision on the jurisdiction and ultimately passed award. However the issue of jurisdiction remained set at rest irrespective of the management approached the high court challenging both the order dated 11.03.2019 and consequent thereupon the final award. The award is set aside in the context of irregular and improper exercise of discretion by the tribunal in refusing the grant of opportunity to the management so as to lead evidence for proving enquiry, inquiry report and charge of conduct only. There is no new fact, admission and evidence relating to the issue no.1, brought on record of the tribunal by the management witness produced before it on

availing fresh opportunity pursuant to the order of remand by the high court. The tribunal in aforesaid circumstances, being the same forum can not appreciate the same facts, admissions and same evidence differently than appreciated earlier to reach at a reviewed and different conclusion with regard to the claimant's status as workman as defined in section 2(s) of the I.D. Act.

20. On the discussion made herein above the issue no1 is beyond the scope of hearing and deciding afresh. The tribunal's decision over the said jurisdictional issue under order dated 11.03.2019 shall form part of the award.

Issue no.2, whether the enquiry conducted by the management is just, fair and proper?

21. The management with a view to prove the enquiry proceeding fair and proper, satisfying all the requirements of the principle of natural justice produced witness MW1 Shiv Nath Singh, before the tribunal. On appreciation of his evidence tribunal vide order dated 11.03. 22019 decided the said issue in favour of the claimant that the enquiry proceeding is vitiated being unfairly conducted.the, management felt necessity of additional evidence to be adduced in this regard. Tribunal did not permit the management to lead fresh evidence at that stage and after hearing passed the final award. Honorable high court in writ jurisdiction set aside the award with remand of the matter for hearing afresh and receiving evidence to prove the enquiry fairly conducted. In accordance with the terms of remand order the management examined the inquiry officer shrei Yudh Veer Singh on 15.12.2022. The evidence so produced afresh shall only be considered at this stage whether it makes any difference than the earlier appreciation of evidence already on record.

22. **Nature of Departmental proceedings 'quasi-judicial' :** Holding departmental proceedings in disciplinary enquiry and recoding finding of guilt against any delinquent and imposing punishment for same is a quasi-judicial function and not administrative function. Hence, authorities have to strictly adhere to statutory rules while imposing punishment. The apex court has repeatedly held this, some of them are cited here, **Vijay Singh Vs. State of Uttar Pradesh & others (2012) 5 SCC 242, State of UP and Coal India Ltd. Vs. Ananta Saha, (2011) 5 SCC 142 and Mohd. Yunus Khan Vs. State of UP, (2010) 10 SC.** A disciplinary enquiry is conducted based on principle of natural justice, whenever any employee allegedly commits misconduct so as to find out his guilt proved and punish accordingly. No specific clauses are provided describing the procedure of the disciplinary enquiry in the matter against the employee of an industrial establishment except the Industrial Employment (standing order) Act, 1946 that provides several acts and omissions as misconduct. The said standing order Act is applicable to the industrial establishments employing a hundred or more employees. Those who are not covered under the said Act frame their own service rules prescribing such procedures. In the present case DIAL has it's own Standing orders in the name and style ," **Standing orders of Delhi International Airport Private Limited"** This is established principle of natural justice that such service rule abides not only the employee but employers also who makes the rule. The apex court in the case of **Union of India v. Mohd Ramzan Khan, AIR1991 SC 471 : (1990 SCR Supp.(3) 248)** has held that the delinquent employee who is held guilty of misconduct, should have right to represent his innocence to the disciplinary authority as **the principle of natural justice** requires. The DIAL in the present case is provided opportunity to lead evidence both documentary and oral in compliance of the order of the high court regarding taking on record of the case evidence to prove the domestic enquiry fairly conducted and in proof of the charge of misconduct against the claimant. Availing that opportunity, DIAL has filed several photocopies of documents pertaining to the leave rules, attendance sheet and the aforesaid standing order. The tribunal admitted and taken on record the said standing order and noticed that there is provision of a fact finding enquiry and institution of domestic enquiry only in the event prima facie the misconduct found to have been committed and the explanation Asko Ed from the delinquent is not satisfactory and he denies the imputation of charge against him. The para 32 of the standing order at it's page 40 is proceeding described under the heading, **" Procedure For Dealing with Misconduct & Disciplinary Proceeding"** The said para is reproduced here under for the purpose of easy reference in discussions.

> *"32. PROCEDURE FOR DEALING WITH MISCONDUCT & DISCIPLINARY PROCEEDINGS*
>
> *In normal circumstances, no order for punishment shall be passed unless; The concerned employee is given an opportunity to submit his explanation in writing which he may submit in respect thereof.*
>
> *An employee against whom misconduct is alleged shall be given a charge sheet clearly setting forth briefly the fact and the circumstances alleged against him and the nature of the misconduct. The employee shall be required to submit his explanation to the charges, for which, a period of 48 hours shall be allowed. If the employee refuses to accept the charge sheet, it shall be pasted on the Notice Board or a copy of the same shall be sent at the available address of the employee through registered/speed post and shall be deemed to have been served upon him.*

The manager upon receiving such explanation shall consider the same and in case no explanation is received, the manager shall proceed with the matter as deemed fit. If the explanation is found satisfactory, the matter shall be closed forthwith. No formal written enquiry shall however, be necessary when the employee expressly admits the charges and the management will take appropriate action.

If the explanation is not found satisfactory, a regular Domestic Enquiry at the place designated solely by the management shall be conducted according to principles of Natural Justice by an Officer of the Company or outsider to be appointed by the management and where necessary a presiding officer from amongst the employees of the establishment shall be appointed to present the case is support of the charges.

Adequate and reasonable opportunity will be given to the employee by holding a Domestic Enquiry according to the following procedure:

A workman shall present himself to appear before the enquiry officer at the time, place and date specified in the enquiry notice. If the employee fails to present himself at the assigned place & time before the Enquiry Officer or boycott the enquiry, the enquiry shall be proceeded Ex-parte and no further opportunity would be provided.

The employee while defending himself before the Enquiry Officer shall have right to represent himself in enquiry proceeding through any co-employee of the establishment or an office bearer of the union of which he is the member provided the office bearer is employed in the company. However, no outsider union leader or an advocate shall be permitted as a representative of the employee.

The employee shall be permitted to produce additional documents, witnesses in his defence and cross-examine the Management witnesses on whose evidence the charge rest. For the purpose of preparing Defence, the employee may also inspect the documents/complaints mentioned in the charge sheet. The employee have to explain the relevancy of the additional documents to the charges under enquiry and such documents shall be called for and witnesses be allowed, if the enquiry officer is satisfied about its relevancy. The presenting officer shall be entitled to re-examine the witnesses on any point. The enquiry officer shall record a concise summary of the evidence led by both the parties.

A copy of the enquiry proceedings shall be supplied to the employee, if he makes an application to this effect. In case, the enquiry officer is changed/replaced, the succeeding enquiry officer may act on the evidence so recorded by its predecessor.

After the conclusion of the enquiry, a report shall be prepared by the enquiry officer containing his findings on the charges, which shall be forwarded to the management. The management shall send a copy of the report to the employee concerned.

If the concerned employee is exonerated of the charges, the Enquiry ordered shall be treated as closed and the employee shall be treated as if he was on duty and shall be entitled to full salary for the period after adjusting the subsistence allowance paid. The management may not agree with the findings of the enquiry officer and may form its own opinion with reasons recorded in writing on the basis of the available evidence on the enquiry record and take appropriate action.

If on the conclusion of the enquiry, the employee has been found guilty of the charges framed against him the employer shall pass an order accordingly. In awarding punishment under these standing orders, the Management shall take into account the seriousness of other extenuating or aggravating circumstances that may exist. The final action shall be taken after giving the concerned employee a reasonable opportunity of making representation on the proposed penalty.

A copy of the orders passed by the manager shall be supplied to the employee concerned whereupon the order shall become operative."

23. A two fold protection in cases of major punishments the natural justice is necessary to be afforded to the delinquent in conformity with the requirement of natural justice. On getting a complaint the disciplinary authority should hold a **preliminary enquiry** into the matter which is actually a fact finding enquiry with collection of prima facie evidences and witnesses. This is not formal but necessary to hold preliminary enquiry so as to ascertain that their are prima facie evidences which, if found proved in due course of the procedure would be sufficient to HOD the delinquent guilty and liable to be punished. In **Amulya Ratan Mukharjee V. Eastern Railway,1962 LLJ (11) 540 Cal H.C.** the high court held that, " before making a charge a charge, the authorities are liable to hold a preliminary investigation or fact finding enquiry on receiving a complaint from the management. All this is to enable the management to apprise themselves of the real facts and to decide

whether the employee should be charge-sheeted. Admittedly, no preliminary enquiry is held in the present matter before instituting the departmental disciplinary enquiry against the claimant The management had not kept itself abide with the rules of the procedure embodied in their own standing order, as such they have committed a serious lapse in and skipping of the fairness in violation of the principle of natural justice.

24. **Charge sheet-** The departmental enquiry starts with the issue of charge sheet which must describe specific charge of misconduct and must have all the necessary particulars and supporting evidence and witnesses. This is also necessary to state in the charge sheet the relevant rule of the applicable service rules under which the workman is liable to be punished. In **Sur Enamel and Stamping Works (P) Ltd. vs. Their Workmen,1963 SC 1914,** the Hon'ble Supreme Court, in an attempt to lay down the procedure for conducting an enquiry for industrial adjudication, provided that an enquiry cannot be said to have been properly held unless:

1. *the workman proceeded against must be informed clearly of the charges levelled against him;*
2. *the witnesses must be examined in the presence of the workman;*
3. *the workman must be given a fair opportunity to cross-examine the witnesses including himself if he so wishes; and;*
4. *the Enquiry Officer must record his findings with reasons in his report.*

25. **Appointment and Authorization of Enquiry Officer :** The para 32 of the standing order authorizes the management to appoint enquiry officer in it's discretion either from amongst the officer of the establishment or any outsider. The management opted the domestic enquiry to be conducted by Advocate, an outsider. The management witness MW1 Shivanath Singh examined earlier before the order of the high court admitted that he was not aware of the appointment of inquiry officer Yudh veer Singh Advocate by the management nor seen the evidence on record of the enquiry with regard to his authorization by the management. After the remand of the matter in the course of fresh hearing in terms of the order of the high court Shri Yudh Veer Singh is examined as MW2 by the management, but in their e list of additional evidence filed by the management, there is no such letter of appointment and authorization in his favor issued by the management. MW2 in his oral examination stated that he was appointed as enquiry officer on 19.09.2009, without referring the name and designation of the competent officer who appointed him as such. Management therefore failed to prove the appointment and authorization of enquiry officer, even in the course of fresh hearing in the case in terms of the remand order. In the case of **Saran Motors Pvt. Ltd., New Delhi Vs. Vishwanathan 1964 11.LLJ 139**, it was observed that:

- "Enquiry Officer should be properly and duly authorized by the competent authority to hold a domestic enquiry into the charges alleged against an employee. Any person, even an outsider, may be appointed as an enquiry officer, provided rules or Standing Orders do not bar such an appointment.
- The Enquiry Officer has the obligation to explain the procedures of enquiry and charge sheet against the concerned employee.

26. Effect of non payment of salary and even non payment of subsistence allowance as per rules and proceeding the domestic enquiry by the enquiry officer ex parte.

The evidence already recorded and appreciated by the tribunal prior to the order of remand by the high court is on record in addition there to additional documentary evidence and oral evidence of the management is taken on record in the course of fresh hearing in terms of the high court's remand order. The evidence on record admittedly establish that the workman is not paid his salary since 01.06.2009 till date, though he had not been placed under suspension at any point of time throughout the enquiry proceeding. He was suffering from serious back pain and lack of fund even to pull the lives of his family. He appeared on the first date of hearing fixed in the enquiry v.i.z. 30.09.2009 and moved following two application proved in the evidence before the tribunal Ex WW1/6 and Ex. WW1/7-

Ex WW 1/6-

"Before the enquiry officer Sh. Yudhveer Singh (Advocate) in the matter of charge sheet dated 27.09.2009 alleged to have been issued to Ashwani Goel.

For my defence during the enquiry the following documents may kindly be provided-

1.Copy of chargesheet dated 27.09.2009.

2.Copies of prosecution documents relied upon in framing the allegations.

3.List of prosecution witnesses.

4.Copy of disciplinary powers for Sr. Assistant (AMI).

5.Name of presenting officers.

6.Whether this CSE entitled allowed assistance of DA, if any represent him in the enquiry if so who can act as my DA.

7.Delegation of disciplinary power of Rajiv Yadav (Associate GM, HR).

8.Delegation of disciplinary power of Pratik Vijay (AM, HR).

9. Delegation of disciplinary power given to Sh. Birendra Prasad (GM, HR).

10. A certified copy of CSO of M/s Delhi International Airport Pvt.Ltd.

11. A copy of Foreign Travel Policy as amended up-to-date applicable to CSE may also be provided.

12. Transfer policy regarding rotation from fixed duty to shift duty.

I will give the names of defence witnesses, additional defence documents and name of my DA after receipt of above documents.

Ashwani Goel *30.09.2009*

Airside Monitoring Inspector

JRL: A3

Pernr: 00003763

Ex WW 1/7

Enquiry Officer *30.10.09*

Delhi International Airport Pvt. Ltd

New Delhi

Mr. Yudhveer Singh

This as ref to your Reg. AD letter sending there with enquiry proceedings 21.10.09 in the matter of charge sheet dated 27.08.09 issued to me.

As explained to you personally and on medical leave since May 17, 2009. Still I am unable to walk/sit properly because of back pain. Because of my being on leave, I have received no salary from 01 June 09 till date. Further I was being paid from 10th June 09 with unauthorized deductions of Rs. 48625.00 till 30th May 2009. The management is with holding my following dues wrongfully.

1.Salary amount from 01.06.09 to 30.10.09 Rs.110,000.00.

2.Reimbursement of mediclaim Rs.30,000/- Approximately received from TTK Healthcare Services.

3.Unlawful deductions of full a final settlement of TA DA claim.

In view of the circumstances explained above Rs.1.5 Lakh under. Going financial crisis. I even do not have money to commute in a hired private car to attend a meeting or on scooter or bus it is not possible for me to attend the enquiry because of medical problems.

I have very clear intentions to come attend the enquiry to give my defence but due to financial reasons i am not unable to do so. In the circumstances you are requested to keep the enquiry in abeyance for a short time a direct the concerned authorities to release my wrongly withheld dues enabling me to attend the enquiry. You will appreciate that the reasons explained by me for inability on my part to attend the enquiry is justified and in consonance with the principles of natural justice. You will act as per law and on the basis of cotena of cases where the Apex Court has held that a delinquent employee not attending the enquiry on A/c of Financial Problems cannot be proceeded exparte.

(ASHWANI GOEL)

CSE

In the case of **Saran Motors Pvt. Ltd., New Delhi Vs. Vishwanathan (Supra)** it is further observed that

- In the case where a workman who is placed under suspension by the
- employer pending investigation or inquiry into complaints or charges of misconduct against him, the employer shall pay to such workman subsistence allowance in accordance with the provisions of Section 10-A of the Industrial Employment (Standing Order) Act, 1946 which provides:

"Where any workman is suspended by the employer pending inquiry into complaints or charges or misconduct against him, the employer shall pay to such workman subsistence allowance:

- at the rate of 50% of the wages which workman was entitled to immediately preceding the date of such suspension, for the first 90 days of suspension and;
- at the rate of 75% of such wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against such workman is not directly attributable to the conduct of such workman."

The enquiry officer on examination before the tribunal as management witness on 15.11.2022 stated that, it is correct that the concerned workman made representations addressed to me regarding payment of conveyance allowance so that he can participate in the enquiry proceedings as he has no money. The enquiry was conducted in the premises of the management and the workman was not suspended. He further stated, I don't have any knowledge that the workman was not paid any conveyance allowance as well as salary. I do not have any knowledge if the management had not paid money on account of the medical issues received from TTK health services for the period he was ill.

To secure fairness in the enquiry and ensure the requirements of the principle of natural justice an independent person should properly be appointed as inquiry officer, so as to treat the management and the delinquent at par. In the present case the enquiry officer was under duty to dispose of the representation of the delinquent referred herein above, directing the management authority to supply him relevant papers relied on by them in the enquiry for proving the charge of the alleged misconduct against the delinquent , Further he would have direct the management to pay of the delinquent his salary or at least the subsistence allowance, but the enquiry officer kept both the prayers un heard., as it is admitted by him in evidence. This hampered the possibility and opportunity of answering the charge sheet, personal appearance and participation in enquiry. This skipping of procedure amounts willful or un willful omission on the part of the enquiry officer but certainly lead towards non participation of the delinquent and proceeding ex parte against him,which shows that he was carrying out the command of some superior officer. In...Kuldeep Singh Vs. Commissioner of Police & others, (1999) 2 SCC 10. the apex court has held that, **upplying copy of document to the delinquent relied upon by the Enquiry Officer must, Where reliance was placed by the Enquiry Officer on the previous statement of the witness without supplying a copy thereof to the delinquent and without affording an opportunity to cross examine the witness, it has been held by the Hon'ble Supreme Court that reasonable opportunity contemplated by Article 311(2) of the Constitution means hearing in accordance with principles of natural justice. Ascribing the non-production of the witnesses, which was fault of the department, to the delinquent showed that the Enquiry Officer was biased in favour of the department and found the delinquent guilty in so arbitrary manner. Thus it is legally necessary to supply relevant materials for the enquiry officer.** In the present case the claimant in his statement deposed by submitting affidavit in examination in chief has asserted that he has not been supplied with charge sheet list of documents and witnesses. Further, in cross examination also he stated his representation (Exhibit WW 1/6 kept indisposed. The enquiry officer MW2 Shri Yudh Veer Singh also, in his cross examination has admitted the same. The apex court in the case of **Meenglass Tea Estate vs. workmen, 1963 11, L.L.J, 392 (S.C.)** in somehow similar facts and circumstances has held, **Management may ask for any document in proof of charge. So, according to the principles of natural Justice, such copies of those documents should be supplied to the delinquent workman. A workman who is to answer to charge must not only know the accusation but also the testimony by which the accusation is supported as enumerated in the case.**

27. **Notice of Enquiry**

On receipt of the charge sheet, the employee sends his reply to the Authority. If the Authority found the reply to be unsatisfactory, he may get a show cause notice from the Authority. This procedure is applied in the case of **Associated Cement Co. Ltd vs. Their workmen and Other 1964 65 26 FJR 289 SC** which further states that: "The workman should be given due intimation of the date on which the enquiry is to be held so that he has an opportunity to prepare his defense at the enquiry." In the present case the workman was admittedly served with notice of enquiry with regard to the charges sheet dated 27.09.2009 without supplying the material and relevant documents fixing 30.09.2009 for **Explanation by Employee** and for his attendance. After a charge sheet has been served on the accused workman, he may send his explanation cum reply in this manner:

1. admitting the charges and pleading for mercy.

2. denying the charges in totality.

3. requesting for more time to submit the explanation.

The claimant when appeared in the enquiry proceeding, the original record of proceeding shows that the date of charge sheet with which he was served said to have wrongly dated and changed by endorsing a new date 27.08.2009. The delinquent when protested the change in date the same was ignored and made by the enquiry officer. He requested some more time to submit explanation and postpone the enquiry for some time moving two representations proved and admitted too by the MW 1 & MW2 both in the evidence before the tribunal respectively Ex WW1/6 and Ex WW1/7 discussed herein above. The enquiry proceeding on that day deferred and the delinquent departed legally and reasonably expecting the information of further course of proceeding and the fate of his two representations The management witnesses states the same kept un disposed of and not informed to the delinquent, further the record of proceedings also corroborate that the enquiry officer proceeded exparte recording absence of the delinquent, though the causes assigned on the first date of enquiry, by the claimant which would be preventing him from participating in the enquiry were hot removed or not directed to the management to remove forth with. The enquiry officer did not make any endeavor to make probable and ensure the participation of the delinquent in the enquiry and enable him to explain whatever imputed to him by the management.

28. Bias

Bias means an operative prejudice, whether conscious or unconscious in relation to a party or issue. Prejudice may be the result of a preconceived opinion or predisposition or a predetermination to decide a case in a particular manner, so much so that it does not leave the mind open. The case in hand is not a proved case of misconduct where vagueness in charge sheet or non supply of material and relevant documents relied on by the management would have been ignored. The enquiry officer in ignoring the reasonable expectations of the delinquent for direction to the management to pay money payable to him ,as he was kept un paid of his salary since 01.06.2009, the medical claim etc. can not be held just and impartial in conducting the enquiry against the delinquent ex parte. The oral evidence on record of the tribunal given by the inquiry officer also corroroborates his partially towards the management and his preconceived mind with premeditated conclusion of the domestic enquiry culminating into the termination of the services of the claimant under the comment of authorities of the management who appointed him being outsider. In his cross examination he has admitted, all the different cases in which he was appointed time to time by the management as enquiry officer he accorded dismissal of the employees.

Learned AR for the management relied on the judgement of the apex court in the case of **Biecco Lawrie Limited and Another V. State of West Bengal and Another (2009) 10 SCC 32**, to emphasize his argument that the enquiry officer may not be imputed with the bias against the delinquent. The facts before the apex court in the above cited case is of a delinquent employee who admittedly abused another employee in filly language and when charge sheeted he tendered apology. However in domestic enquiry he took plea of non supply of charge sheet with specific abusive language, since his misconduct was proved as he had apologized and had been afforded every opportunity to defend him allegation of bias of the enquiry officer was not sustained. The facts of the above judgement being quite different, law propounded by the apex court in their circumstances, respectfully submitted that, is not applicable in the present case.

Enquiry Officer when to be held biased and proceeding under pressure from his superior officer- In Kuldeep Singh Vs. Commissioner of Police & others, (1999) 2 SCC, w*here reliance was placed by the Enquiry Officer on the previous statement of the witness without supplying a copy thereof to the delinquent and without affording an opportunity to cross examine the witness, it has been held by the Hon'ble Supreme Court that reasonable opportunity contemplated by Article 311(2) of the Constitution means hearing in accordance with principles of natural justice. Ascribing the non-production of the witnesses, which was fault of the department, to the delinquent showed that the Enquiry Officer was biased in favour of the department and found the delinquent guilty in so arbitrary manner which showed that he was carrying out the command of some superior officer.*

29. **Examination of Witnesses Non examination of complainant as witness & its effect** : Where a police-sub-inspector was dismissed from service on the charges of in-efficiency and dis-honesty based on adverse reports of superior officers and such superior officers, though available, were not examined to enable the police-sub-inspector to cross-examine them, it has been held that refusal of the right of the delinquent to examine such witnesses amounted to denial of reasonable opportunity of showing cause against the action of dismissal and the dismissal was held as not legal. It has further been held that the reports against the delinquent

police-sub-inspector relating to period earlier than the year in which he was allowed to cross efficiency bar should not have been considered in the departmental enquiry. (**State of Punjab vs. Dewan Chunni Lal, AIR 1970 SC 2086)** In the present case the management failed to produce the complaint authority who complained the unauthorized absence of the claimant on duty. None of the officer or official of the establishment handling the attendance of the employees on duty in the establishment is examined by the management, producing the attendance register maintained and preserved by him in ordinary course of routine day to day business, neither before the enquiry officer nor in the industrial tribunal. This being denial of providing evidence of the charged misconduct, though made basis for holding the claimant guilty in enquiry.

Further, some general rules for examination of the witness are mentioned in the judgment of **Tata Engineering and Locomotive Co. Ltd. vs. S.C. Prasad, (1969) 11 L.L.J. 799 (S.C.)**

It was observed by the Hon'ble Supreme Court that:

- "If the allegations mentioned in the charge sheet are denied by the workman in the domestic enquiry proceedings, the onus for proving those allegations will be upon the shoulders of the management and;
- the witnesses, called by the Management, must be allowed to be cross examined by the workman and;
- the workman must also be given a reasonable opportunity to examine himself and can add any further pieces of evidence that he might choose in support of his plea."

30. After considering the evidence already appreciated by the tribunal prior to the direction of the high court to permit the management to lead additional evidence for proving the fairness of the enquiry and, on appreciation of those brought on record additionally, both the documentary and oral evidence of the inquiry officer, it would be relevant before, any conclusion is recorded ,to reproduce here below that is already drawn on record in order of the tribunal dated 11.03.2019 :

"6- The version of the claimant in his affidavit Ex.WW1 is in line and reiteration of the averments made in the claim petition. The claimant has filed on record copy of the letter dated 30/9/2009 (Ex.WW1/6) whereby he had demanded 12 Nos. of documents vis-à-vis copy of chargesheet dated 27/9/2009, copies of documents relied upon by the Management, list of witnesses etc. As regards supply of documents to the claimant, I may mention that MW1 has admitted in his cross examination that the had workman/claimant demanded documents as mentioned in Ex.WW1/6 later on though not on the first date of enquiry. The witness also admitted that the management did not supply the complete documents as demanded by the workman vide letter Ex.WW1/6, though claimed that documents mentioned at SI.No1, 2 and 5 of Ex.WW1/6 were supplied to the workman. However, he could not show that documents mentioned at SI. No.2 of Ex. WW1/6 was supplied to the workman. He also admitted that no subsistence allowance or salary was given to the workman w.e.f. 1/6/2009. Thus, it emerges from the evidence adduced on record that copy of the documents relied upon by the Management and list of witnesses to be examined by the Management were not at all supplied to the claimant despite his demand vide letter Ex.WW1/6. It is worthwhile to mention here that denial of documents upon which are/were important documents for claimants to defend the case, amounts to depriving him from defending the case in a proper manner. Depriving the workman to defend his case with the relevant documents and list of witnesses amounts to violation of the principle of natural justice.

7- It is fairly settled that the payment of subsistence allowance, in accordance with the rules, to an employee under suspension, is not a bounty but it is a right. Non-payment of the subsistence allowance from the date of suspension till removal is a clear case of breach of principles of natural justice. To this view I am fortified by the decision of Hon'ble Supreme Court in the case of ***Jagdamba Prasad Shukla Vs. State of UP and others, Manu/SC/0524/2000.*** *Depriving the workman to defend his case with the relevant documents and list of witnesses amounts to violation of the principle justice. It has come on record that claimant who was terminated from service vide order dated 19/5/2010 was not paid substance allowance or salary w.e.f. 1/6/2009. As such, there was also breach of principle of justice by the Management.*

8- According to the management, Shri Yudhveer Singh, Advocated was appointed as enquiry Officer and he had conducted enquiry against the claimant. However, MW1 Shiv Nath Singh admitted that there is no documents on record to show that Shri Yudhveer Singh was appointed as Enquiry Officer. It is pertinent to mention here that so as to prove enquiry proceedings & enquiry report before this Tribunal and /or to rebut the specific allegations of the workman as aforesaid, the Management has not examined Shri Yudhveer Singh – the Enquiry Officer or any other person who was actively associated with the domestic enquiry. MW1 Shri Shiv Nath Singh clarified that he was appearing as an official (of the Management) to watch the proceeding. Admittedly, MW1 was not actively involved in any

manner in the domestic enquiry. Thus it is crystal clear, the said witness of the Management was not at all associated with enquiry proceedings at any stage. To my mind, non examination of the Enquiry Officer or any other official who was associated with enquiry proceedings is concerned. To the View I am fortified by the decision of Hon'ble High Court of Delhi in the case of The ***Kangra Co-operative Bank Ltd. Vs. M/s Seema Sharma*** *(2018 LLR 231), wherein it has been observed in para 9 as under :-*

> *"The petitioner has not examined the Enquiry Officer or any of its employee as a witness in the court to prove the enquiry proceeding and report and only chose the examine MW1 H.R. Thakur Presenting Officer to prove the same. Mr. H.R. Thakur was not an independent witness to appear in the court and the prove the enquiry proceedings against the respondent. The presiding (sic. Presenting) Officer is not expected to become a persecutor. He is a biased witness. Therefore, the Industrial Adjudicator has rightly adjudicated the issue that the petitioner has failed to prove the enquiry proceeding and Enquiry Report against the respondent.*

It is worthwhile to mention here that ratio of the aforesaid decision has been upheld by Division Bench of our own High Court in LPA No.86/2018 – decided on 27/4/2018."

31. The additional documentary evidence brought on record and the oral examination of the enquiry officer recorded by the tribunal as has been appreciated and discussed in detail, in but for the last preceding paras here above, does not make any difference even after the fresh hearing in conclusion. The tribunal firmly holds that the management has failed to prove the enquiry proceeding and enquiry report fair and impartial, conducted in conformity with the principle of natural justice and fair play against the delinquent workman. Consequently the domestic enquiry in question, is held vitiated. The issue no 2 is therefore decided against the management and in favor of the claimant.

Proof of Misconduct alleged to have committed by the workman –

32. The Supreme Court in the case of Workmen of M/S Firestone Tyre and Rubber co. of India (P) limited. V. Management and Others has held, sco.kydence justifies the finding of misconduct. That in terms of section 11 A of the I. D. Act, 1947 a domestic enquiry is held and finding of misconduct is recorded the authorities under the Act have full power and jurisdiction to reappraise the evidence and to satisfy themselves whether the evidence justifies the finding of misconduct. But where the inquiry is found to be defective, the employer can lead evidence to prove misconduct before the authority. This Court held as under:

> *"32. From those decisions, the following principles broadly emerge :-*
>
> *(1) The right to take disciplinary action and to decide upon the quantum of punishment are mainly managerial functions, but if a dispute is referred to a Tribunal, the latter has power to see if action of the employer is justified. 4 For short, the 'Act'5 (973) 1 SCC 813.*
>
> *(2) Before imposing the punishment, an employer is expected to conduct a proper enquiry in accordance with the provisions of the Standing Orders, if applicable, and principles of natural justice. The enquiry should not be an empty formality.*
>
> *(3) When a proper enquiry has been held by an employer, and the finding of misconduct is plausible conclusion flowing from the evidence, adduced at the said enquiry, the Tribunal has no jurisdiction to sit in judgment over the decision of the employer as an appellate body. The interference with the decision of the employer will be justified only when the findings arrived at in the enquiry are perverse or the management is guilty of victimisation, unfair labour practice or mala fide.*
>
> *(4) Even if no enquiry has been held by an employer or if the enquiry held by him is found to be defective, the Tribunal in order to satisfy itself about the legality and validity of the order, had to give an opportunity to the employer and employee to adduce evidence before it. It is open to the employer to adduce evidence for the first time justifying his action, and it is open to the employee to adduce evidence contra.*
>
> *(5) The effect of an employer not holding an enquiry is that the Tribunal would not have to consider only whether there was a prima facie case. On the other hand, the issue about the merits of the impugned order of dismissal or discharge is at large before the Tribunal and the latter, on the evidence adduced before it, has to decide for itself whether the misconduct alleged is proved. In such cases, the point about the exercise of managerial functions does not arise at all. A case of defective enquiry stands on the same footing as no enquiry.*

(6) The Tribunal gets jurisdiction to consider the evidence placed before it for the first time in justification of the action taken only, if no enquiry has been held or after the enquiry conducted by an employer is found to be defective.

(7) It has never been recognised that the Tribunal should straightway, without anything more, direct reinstatement of a dismissed or discharged employee once it is found that no domestic enquiry has been held or the said enquiry is found to be defective.

(8) An employer, who wants to avail himself of the opportunity of adducing evidence for the first time before the Tribunal to justify his action, should ask for it at the appropriate stage. If such an opportunity is asked for, the Tribunal has no power to refuse. The giving of an opportunity to an employer to adduce evidence for the first time before the Tribunal is in the interest of both the management and the employee and to enable the Tribunal itself to be satisfied about the alleged misconduct.

(9) Once the misconduct is proved either in the enquiry conducted by an employer or by the evidence placed before a Tribunal for the first time, punishment imposed cannot be interfered with by the Tribunal except in cases where the punishment is so harsh as to suggest victimisation.(10) In a particular case, after setting aside the order of dismissal, whether a workman should be reinstated or paid compensation is, as held by this Court in The Management of Panitole Tea Estate v. The Workmen, 1971-1 SCC 742within the judicial decision of a Labour Court or Tribunal.

33. "**Misconduct" & it's meaning :** In the case of **Institute of Chartered Financial Analysts of India & others Vs. Council of Institute of Chartered Accountants of India & others, AIR 2007 SC 2091,** the Hon'ble Supreme Court has defined the expression "misconduct" thus : *"misconduct" inter alia, envisages breach of discipline, all though it would not be possible to lay down exhaustively as to what would constitute conduct and indiscipline, which, however, wide enough to include wrongful omission or commission whether done or omitted to be done intentionally or unintentionally. It means "improper behaviour, intentional wrong doing on deliberate violation of a rule of standard or behavior". Misconduct is a transgression of some established and definite rule of action, where no discretion is left except what necessity may demand, it is a violation of definite law or a forbidden act. It differs from carelessness. Misconduct, even if it is an offence under the Indian Penal Code, is equally misconduct. Acquisition of additional qualification (degree) would not amount to misconduct or professional misconduct."* Further, Interpreting the word "misconduct", the Hon'ble Supreme Court in the case of **State of Punjab & others Vs. Ram Singh, Ex-Constable, AIR 1992 SC 2188 (Three-Judge Bench)** and the Hon'ble Allahabad High Court in **Rinku alias Hakku Vs. State of UP, 2000(2) AWC 1446 (Allahabad High Court : Full Bench)** have observed thus : "*the word `misconduct' though not capable of precise definition, its reflection receives its connotation from the context, the delinquency in its performance and its effect on the discipline and the nature of the duty. It may involve moral turpitude, it must be improper or wrong behavior, unlawful behavior, willful in character, forbidden act, a transgression of established and definite rule of action or code of conduct but not mere error of judgment, carelessness or negligence in performace of the duty, the act complained of bears forbidden quality or character. It's ambit has to be construed with reference to the subject matter and the context wherein the term occurs, regard being had to the scope of the statute and the public purpose it seeks to serve."*

34. This would be noteworthy here at this stage that, the facts and circumstances proved by evidences tend to show that, the management in connivance with the enquiry officer orchestrated the proceeding of domestic enquiry ex parte against the claimant with ulterior motive. The witnesses were barred to be confronted by the delinquent workman in the garb of ex parte proceeding. However, the management is not relieved from proving the misconduct alleged to have been committed by the workman. To prove the misconduct in terms of the remand order by the high court, the DIAL has produced additional documentary evidences, one of them is Standing Orders which only worth to be taken into notice, rest of the documents pertaining to the domestic enquiry, need to be proved by enquiry officer or any one else who actively participated in the domestic enquiry proceedings. The attendance sheet are photo state copies which can be proved only by the custodia legis thereof or maker of entries therein or some body who noted the attendance of the workman as supervisor. None of such official or officer is produced by the management as witness for examination before the tribunal. The photo documents are not compared and verified as true copies of their originals by the officer concerned.

35. The DIAL in additional documentary evidence has submitted its standing order, the Page No. 21 of which contains Para-22 relating to Leave or Absence Leave. In Para 22.2.2 there is provision of sick leave sub Para b of the Para 22.2.2 aforesaid provisions, 'sick leave can be accumulated without any limit and in sub Para-d, further provides that, if entire sick leave has been exhausted, CL/PL can be adjusted for the leave taken, at the employees request. The case of the claimant is that he was suffering from back pain and relative illness and was under treatment during the period alleged authorized absence. The enquiry officer as management witness

when produced before the tribunal on 15.11.2022.,in his cross-examination admitted that, it is correct that the concerned workmen made representations regarding payment of conveyance allowance so that he can participate in the enquiry proceeding as he has no money. He further stated in cross-examination that, I do not had any knowledge if the management had not paid the money on account of the medical claim received from TTK Healthcare Services for the period he was ill. The management has not rebutted this fact of illness and the treatment papers of TTK Healthcare Services. This would also be relevant to state that the period of alleged un authorized absence is said to be commenced from 01.06.2009. Prior to the aforesaid period this is not the case of management that the workman/claimant has ever been un authorizedly absent from his duty. Though he was appointed in the establishment of management vide appointment letter 04.07.2007 and conformed in service w.e.f. 18.01.2008. The alleged case of unauthorized absence is subjected to domestic enquiry vide a charge sheet dated 27.08.2009. The aforesaid admitted and proved facts tend to show that the workman/claimant has never been habitual absentee on his duties. There has never been complaint against him for any kind of misconduct. The management establishment has its HOD who deals with the matter of leave of employees. In the present case the management has not tried to prove the unauthorized Absence or Absence without leave by producing the officer or official noting the attendance of employees on duty nor has produced the concerned HOD to prove that the workman/claimant has not moved any application for sick leave with the papers of treatment from TTK Healthcare Services. The photocopy of attendance sheet Anexure A1, photocopy of time & attendance Anexure A6 are filed in the tribunal but not proved as such the allegation of unauthorized absence from duty for the want of evidence can not be said to have been proved and therefore, the finding as to the unauthorized absence by the enquiry officer is based on 'No Evidence'. The finding of unauthorized absence is therefore not justified . The learned AR on behalf of the management has argued that remaining absent for a long time can not be said a minor misconduct. He relied on the judgement of the Apex Court in '***North Eastern Karnataka Road Transport V. Ashappa (2006) 5 SCC 137'*** with due regard,, the facts of the case before the Apex Court was the prolonged unauthorized absence which is held misconduct , the facts of present case are different. Than Here the prolonged unauthorized absence is not proved, secondly the work of the delinquent workman was not of a nature which could not be handled by other co-workers. Moreover, it has not been alleged and proved by the management that the establishment has suffered any loss or material inconvenience in discharge of its function on the Airport.On the basis of the above discussions looking into the facts and circumstances proved on record the tribunal is of opinion that the management remained unsuccessful in justifying the finding of the enquiry officer as to the misconduct alleged to have been committed by the workman.

35. Issue No. 3 & 4. On the discussion over the evidences both documentary and oral placed before the tribunal prior to the order of remand and again after the order of remand as additional and fresh evidence, I am of the considered opinion that, they do not make any difference in the conclusion arrived at earlier by the tribunal. Moreover, the finding on issue no. 3 & 4 based on the appreciation of evidence already on record need not to be interfere by the tribunal as same is beyond the scope of order of the remand by the Hon'ble High Court. The finding of issue no. 3 & 4 made by tribunal is made part of the present award hereunder:

36. Both these issues being co-related are taken up together and same can be disposed of conveniently by common discussion.

37. The version of the claimant in his affidavit Ex.WW1 is in line and reiteration of the averments made in the claim petition. As per pleadings of the parties and evidence adduced on record, it is manifest that the claimant was appointed as Airside Monitoring Inspector by the Management vide appointment letter dated 4/7/2007 and he worked under the Management till his services were terminated vide order dated 19/5/2010 pursuant to the domestic enquiry conducted against him.

38. During the course of arguments, learned A/R appearing for the Management strenuously argued that a fair and reasonable opportunity of hearing was afforded to the workman/claimant and the charge sheet did not suffer any discrepancy. He also argued that the punishment awarded to the workman/ claimant was commensurate with the misconduct on his part. He placed reliance on the decision of Hon'ble Supreme Court in the case of **Biecco Lawrie Ltd. & another Versus State of West Bengal and another (Civil Appeal No.245 of 2007 - decided on 28/7/2009)** to buttress his submission that interference is not warranted in the matter.

39. I have carefully gone through the judgement in the case of **Biecco Lawrie Ltd.(supra) as** relied upon by the Management. In that case, pivotal question for consideration was whether the principle of natural justice was violated and whether the order of dismissal of the workman was bad & unjustified, or not. With due respect I may mention that the aforesaid judgement is of no help to the case of the Management inasmuch this Tribunal vide detailed order dated 11/3/2019 has already held that domestic enquiry conducted against the workman/claimant was vitiated. The Management in its written statement had not reserved its right to prove the allegations of misconduct against the claimant/workman. Charge sheet dated 27/8/2009 contained allegations

of misconduct against the claimant/workman to the effect that he had been unauthorisedly absenting from duty w.e.f. 1/6/2009 without prior sanction of any leave or any intimation and the management sent him various communications vide letters dated 24/7/2009, 7/8/2009 and 14/8/2009 but he neither responded nor joined duty and this remained absent from duty for 88 days. Onus to prove the allegations of misconduct against the workman/ claimant was/is upon the Management. The Management has not led any evidence to prove the misconduct regarding unauthorized absence from duty by the workman/claimant or to prove service of the aforesaid letters to the claimant/workman. Even if it is assumed for the sake of arguments that the workman/claimant remained absent from duty unauthorisedly and this fact was held to be proved by the Enquiry Officer in his enquiry report, in that eventuality also the Disciplinary Authority was required to give personal hearing to the workman before imposing penalty upon the workman. There is nothing on record to show that personal hearing was afforded to the claimant/workman prior to imposition of penalty of removal/dismissal from service. Even perusal of order of dismissal dated 19/5/2010 (Ex.WW1/10) also does not show that any opportunity of personal hearing was granted to the workman prior to his dismissal by the Disciplinary Authority and it would be worthwhile to refer to para 3 & 4 of the dismissal order and same is reproduced hereunder :-

> "A copy of the enquiry report dated February 19, 2010 was already sent to your under the cover of show cause notice dated March 11, 2010. We have received your reply dated May 05, 2010 against the show cause notice. After perusal of your reply, management found it unsatisfactory.
>
> The Management has considered the gravity and seriousness of the charges, your long & unauthorized absence is causing dislocation of company's work and also adversely affecting the discipline of the organization. It is also serious misconduct as per the clause 30.7, 30.9 and 30.21 of the certified standing orders of the company."
>
> Having regard to the aforesaid facts and circumstances of the case, this Tribunal is of the considered opinion that the action of the Management in terminating the services of the claimant/workman w.e.f. 19/5/2010 can not be held to be legal and justified inasmuch the dismissal order dated 19/5/2010 suffers from procedural impropriety and moral standards.

40. Now the residual question is whether the claimant/work is entitled to any incidental relief of payment of back wages and/or reinstatement of service with full back wages. Testimony of the claimant that he continuously worked with the Management from 19/7/2007 prior to his termination/ dismissal vide order dated 19/5/2010, has gone unrebutted. The job of the workman as Airside Monitoring Inspector is considered to be of perennial and regular nature. The workman/claimant has pleaded and testified that he is unemployed since the date of his termination. The Management has not led any evidence to show that the workman/claimant is gainfully employed and is getting same or more emoluments which he was getting at the time of termination from service.

41. The Hon'ble Apex Court in case **"Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya"** reported as (2013) 10 SCC 324 has held as under :

> "The propositions which can be culled out from the aforementioned judgments are :
>
> i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
>
> ii) **Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages**. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/ workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments."
>
> With regard to the principle to be followed by the Labour Courts/Industrial Tribunals to award back wages if order of termination./dismissal is set aside, their lordships after referring to the decision of a Bench of three Judges had laid down the law as under :- (see page 102-103 of LLR Jan.-June2015)
>
> "17. The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position, in which he would have been but for th illegal action taken by the employee. The injury suffered by a person, who is dismissed

or removed or is otherwise terminated from service cannot easily be measured in terms of money. With the passing of an order which has the effect of severing the employer-employee relationship, the latter's source of income gets dried up. Not only the concerned employee, but his entire family suffers grave adversities. They are deprived of the source of sustenance. The children are deprived of nutritious food and all opportunities of education and advancement in life. At times, the family has to be borrow from the relatives and other acquaintance to avoid starvation. These sufferings continue till the competent adjudicatory forum decides on the legality of the action taken by the employer. The reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi-judicial body or Court that the action taken by the employer is ultra vires the relevant statutory provisions or the principles of natural justice, entitles the employee to claim full back wages. If the employer wants to deny back wages to the employee or contest his entitlement to get consequential benefits, then it is for him/her to specifically plead and prove that during the intervening period the employee was gainfully employed and was getting the same emoluments. Denial of back wages to an employee, who has suffered due to an illegal act of the employer would amount to indirectly punishing the concerned employee and rewarding the employer by relieving him of the obligation to pay back wages including the emoluments."

42. A Bench of three Judges of the Hon'ble Supreme Court in the case of Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited (1979) 2 SCC 80 held that relief of reinstatement with continuity of service can be granted where termination of service is found to be invalid. It would mean that the employer has taken away illegally the right to work of the workman contrary to the relevant law or in breach of contract and simultaneously deprived the workman of his earnings. If thus the act of employer is found to be totally illegal and arbitrary, in that eventuality the workman is required to be reinstated, with full back wages. Plain common sense also dictates that the removal of an order terminating the services of workmen must ordinarily lead to the reinstatement of the services of the workmen alongwith payment of back wages.

43. In the case of **Bholanath Lal and others Vs. Shree Om Enterprises (P) Ltd., Manu/DE/1922/2018** (decided on 10/5/2018), Hon'ble High Court of Delhi while considering the question of illegal termination and reinstatement held as under :-

"The cases in which the competent court or tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the court or tribunal concerned will be fully justified in directing payment of full back wages. In such cases, the superior courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc. merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same The courts must always keep in view that that in the cases of wrongful/illegal termination of service, the wrongdoer is the employer and the sufferer is the employee /workman and there is no justification to give a premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/ workman his dues in the form of full back wages."

Reinstatement with back wages

44. The claimant against the order of reinstatement with 60% back wages approach the Hon'ble High Court in W.P. (C) 5854/2020 assailing this part of the award dated 02.07.2019. The same was dismissed by the Hon'ble High Court vide judgment dated 5th July 2021 while disposing the two petitions of the DIAL against the order date 11.03.2019/ 03.06.2019 and the award dated 02.07.2019 in W.P. (C) 8215/2019 and W.P. (C) 11157/2019. As such the matter of back wages to the extent of 60% stand confirmed by the Hon'ble High Court. The tribunal shall not interfere in the finding of the tribunal as to the back wages again.

RELEIF

A. Therefore, adjudicating the rights entitlement and interest of the workman and liabilities of the opposite party management, in answer to the reference dated 13.12.2012, *"whether the action of the management of Delhi International Airport Private Limited in dismissing the services of Shree Ashwani Goel w.e.f. 19.05.2010 is legal and justified? What relief the workman is entitled to?"* I hold that, the domestic enquiry conducted by the management of DIAL against the workman is vitiated and unfair by reason of having been conducted in violation of the principle of natural justice. The dismissal order dated 19.05.2010 is also held illegal, un justified and not sustainable in the eye of law, therefore struck off.

B. Since the claimant / workman was performing duty to a post of regular and perianal in nature this tribunal is of the firm view that the claimant/workman herein is entitled for reinstatement into service of the

Delhi International Airport Pvt Ltd. (DIAL) on the same post with 60% back wages with all consequential benefits.

C. The claimant/workman is also granted litigation cost of Rs.50,000 as provided under Section 11 (7) of the I.D. Act and the same shall also be paid by the management.

D. Hon'ble High Court while disposing the writ petitions vide judgment and order dated 05.07.2021 has granted relief in Para-19 as follows:

v. Mr. Goel will be paid his last drawn wages or minimum wages, whichever is higher, from 02.07.2019, i.e. the date of the impugned award. The money paid will not be recouped from Mr. Goel, irrespective of whether or not the final decision rendered by the Tribunal is in his favour. This direction is being issued in furtherance of powers vested in this Court, under Article 226 of the Constitution. [See order dated 29.01.2021, passed by this Court, in W.P. (C) 6128/2017; upheld by the Division Bench of this Court, vide order dated 16.03.2021, passed in LPA 112/2021]. It is made clear that the aforesaid remuneration will be paid to Mr. Goel, by DIAL, till the final disposal of the matter, by the Tribunal."

vi Since the remand of the matter has taken place to give DIAL an opportunity to prove the charge levelled against Mr. Goel, it is mulcted with costs which are quantified at Rs.50,000/-.

vii Rs. 15,00,000/- deposited in this Court by DIAL, alongwith the accrued interest will be remitted to the Tribunal for payments and costs required to be made under clause (v) and (vi) above. In case, the surplus amount is left, the Tribunal will retain the same, and the amount retained by it [alongwith accrued interest], shall abide by the final decision rendered in the matter. In line with this direction, in the interregnum, the Tribunal will invest the money in an interest-bearing fixed deposit, maintained with a nationalized bank.

The said direction of the Hon'ble High Court remain un-complied by the management, though not stayed in any proceeding before the Hon'ble High Court or Hon'ble the Supreme court by the Court, are made part of the award. The office is directed to calculate and quantify the liability under the aforesaid direction on the part of the management. It is made clear as an amount of Rs.7,29,834/- stands paid for the period from 02.09.2019 to 31.12.2021 and a balance of Rs.3,65,310/- is still remained u npaid for the period from 01.01.2022 to March, 2023. The management of Delhi International Airport Pvt Ltd. (DIAL) is directed to pay of the entire amount in addition to back-wages within 30 days of this order to the claimant Sh.Ashwani Goel, with interest at the rate of 06% per annum.

E. In case the management of DIAL not comply full, with the direction and payment of back wages as well as the payment of Rs.3,65,310/- which fell due vide the order of the Hon'ble High Court referred herein above, under the award within the prescribed time limit of 30 days, the management shall be liable to pay the same with interest at penal rate of 12% per annum thereafter.

F. The concerned Labour Commissioner is directed to execute and enforce the award in case of failure of the management to pay the same within the aforesaid 30 days adopting all legal process of recovery to satisfy the amount under the award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

नई दिल्ली, 16 मई, 2023

का.आ. 835.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट अथॉरिटी ऑफ़ इंडिया, चेन्नई के प्रबंधतंत्र के संबद्ध नियोजकों और इंडिया एयरपोर्ट्स कामगार यूनियन, नई दिल्ली के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, के पंचाट (रिफरेन्स न.-49/2015) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.05.2023 को प्राप्त हुआ था।

[सं. एल-11011/5/2015 -आई आर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th May, 2023

S.O. 835 .—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 49/2015) of the Central Government Industrial Tribunal cum Labour Court, Hyderabad as shown in the Annexure, in the Industrial dispute between the employers in relation to Airport Authority of India, Chennai and India Airports Kamgar Union, New Delhi which was received along with soft copy of the award by the Central Government on 16.05.2023.

[No. L-11011/5/2015 -IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT AT HYDERABAD

Present: - Sri IRFAN QAMAR**,** Presiding Officer

Dated the 17th day of April, 2023

INDUSTRIAL DISPUTE No. 49/2015

Between:

The General Secretary,
India Airports Kamgar Union,
CHQ Off.Qtr .No.B-140,
Pocket-A, I N A Colony,
New Delhi – 110023. … Petitioner

AND

The Regional Executive Director,
Airport Authority of India,
Southern Region, ATS Complex,
Chennai Airport,
Chennai – 6000 27. …. Respondent

AWARD

The Government of India, Ministry of Labour by its order No.L-11011/ 5/2015-IR(M) dated 4.6.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Airport Authority of India and their workman. The reference is,

SCHEDULE

"**Whether the action of the Management of Airport Authority of India, Vijayawada, Andhra Pradesh by not treating the intermittent period of joining time as duty on cancellation of transfer order is fair, proper and justified? If not, to what relief the workman is entitled to?"**

The reference is numbered in this Tribunal as I.D. No. 49/2015 and notices were issued to the parties concerned and the Petitioner entered appearance. Petitioner filed claim statement.

2. Respondent set ex-parte as no counter filed after giving several opportunities.

3. After filing claim statement Petitioner did not file vakalath and despite sufficient number of opportunities have been provided to him, he did not turn up to adduce evidence in support of his claim. It thus becomes crystal clear that the petitioner seems to be not interested in pursuing his case and as such a no claim award is given against the workman/petitioner. As such, a 'No Claim' award is passed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 17th day of April, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मई, 2023

का.आ. 836.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंदिरा गाँधी एम्प्लाइज' स्टेट इन्सुरेंस कॉर्पोरेशन हॉस्पिटल, दिल्ली; 3573, बालाजी कुमार पांडा सिक्योरिटी एजेंसी, नई दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और श्री विद्या सागर, दिल्ली के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली के पंचाट (रिफरेन्स न. - 237/2021) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.05.2023 को प्राप्त हुआ था।

[सं. जेड-16025/04/2023 -आई आर(एम)-37]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th May, 2023

S.O. 836.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 237/2021) of the Central Government Industrial Tribunal cum Labour Court-2, New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to Indira Gandhi Employes' State Insurance Corporation Hospital, Delhi; 3573, Balaji Kumar Panda Security Agency, New Delhi and Shri Vidhya Sagar, Delhi which was received along with soft copy of the award by the Central Government on 16.05.2023.

[No. Z-16025/04/2023 -IR(M)-37]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present: Smt. PRANITA MOHANTY, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 237/2021

Date of Passing Award- 2nd May, 2023

Between:

Shri Vidhya Sagar, S/o Sh. Relu Sharma,
R/o C-305, Gali No. 10, Hardev Puri, Mandoli,
Jhilmil colony, Delhi-110012. ….claimant.

Versus

1. The Medical Superintendent,

Indira Gandhi Employees' State Insurance Corporation Hospital,
Jhilmil Colony, Delhi–110095.

2. 3573, Balaji Kumar Panda Security Agency,
Shop No.G–30, Block–C–6B, Vikas Surya Plaza,
DDA Commercial Complex, Janakpuri,
New Delhi–110058. ….Managements

Appearances:-

Claimant in person
Shri Rohit Bhagat, Ld.A/R for the Management No.1
None for the management No.2

AWARD

This is an application filed by the claimant against the management No.1 and 2 alleging illegal termination of his service.

In the claim petition it has been stated that he was working in the premises of management No.1 through the service provider management No.2 since 10.12.2016 as a Security Guard. His last drawn wage per month was Rs.22000/-. The management was not extending the benefits of leave, PF, ESI etc to the claimant despite demand. No appointment letter or salary slip was even provided by the employer. Thus, the claimant was often demanding those legitimate entitlements. The management instead of extending the benefit to him, on 01.04.2019 illegally terminated his service and at the time of termination no notice of termination, notice pay, or termination compensation was paid. The efforts made by the claimants for reinstatement and grant of legitimate dues since failed he served a demand notice on 22.06.2019 through the union. But the management did not respond to the same. Finding no other way he, on 10.07.2019 raised a dispute before the Labour Commissioner where a conciliation proceeding was initiated. The managements though appeared did not agree to the terms of conciliation. Thus, the claimant filed the present claim petition praying reinstatement with back wages.

Notice being served the management No.1 appeared and filed written statement denying the claim advanced by the claimant. Management No.2 for his absence was proceeded exparte.

Before commencement of the hearing steps were taken for a conciliation between the claimant and the management No.1. The terms of conciliation proposed by the claimant since accepted, the claimant gave a statement to the effect that he has no grievance with regard to the termination of his service and he does not proceed with the matter and requested for disposal of the proceeding as he has no claim against the management. The statement of the claimant as per separate sheet is recorded and attached in the record. The proceeding is disposed of on conciliation as the claimant has disowned the claim against both the managements. Hence, ordered.

ORDER

The claim be and the same is disposed of for the no claim advanced by the claimant against the managements in respect of the alleged illegal termination of service. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 16 मई, 2023

का.आ. 837.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंदिरा गाँधी एम्प्लाइज' स्टेट इन्सुरेंस कॉर्पोरेशन हॉस्पिटल, दिल्ली; 3573, बालाजी कुमार पांडा सिक्योरिटी एजेंसी, नई दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और श्री नरेश पाल, ग़ज़िआबाद के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली के पंचाट (रिफरेन्स न. -240/2021) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.05.2023 को प्राप्त हुआ था।

[सं. जेड -16025/04/2023 -आई आर (एम)-36]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th May, 2023

S.O. 837.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 240/2021) of the Central Government Industrial Tribunal cum Labour Court-2, New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to Indira Gandhi Employes' State Insurance Corporation Hospital, Delhi; 3573, Balaji Kumar Panda Security Agency, New Delhi and Shri Naresh Pal, Ghaziabad, which was received along with soft copy of the award by the Central Government on 16.05.2023.

[No. Z-16025/04/2023-IR(M)-36]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present: Smt. PRANITA MOHANTY, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 240/2021

Date of Passing Award- 2nd May, 2023

Between:

Shri Naresh Pal, S/o Sh. Chatar Singh,
R/o House No. 100, Gali No. 07, Ambedkar,
Loni, Ghaziabad, Uttar Pradesh. ….claimant

Versus

1. The Medical Superintendent,
   Indira Gandhi Employees' State Insurance Corporation Hospital,
   Jhilmil Colony, Delhi–110095.

2. 3573, Balaji Kumar Panda Security Agency,
   Shop No.G–30, Block–C–6B, Vikas Surya Plaza,
   DDA Commercial Complex, Janakpuri,
   New Delhi–110058. ….Managements

Appearances:-

Claimant in person
Shri Rohit Bhagat, Ld.A/R for the Management No.1
None for the management No.2

AWARD

This is an application filed by the claimant against the management No.1 and 2 alleging illegal termination of his service.

In the claim petition it has been stated that he was working in the premises of management No.1 through the service provider management No.2 since 10.12.2016 as a Security Guard. His last drawn wage per month was Rs. 18500/-. The management was not extending the benefits of leave, PF, ESI etc to the claimant despite demand. No appointment letter or salary slip was even provided by the employer. Thus, the claimant was often demanding those legitimate entitlements. The management instead of extending the benefit to him, on 01.04.2019 illegally terminated his service and at the time of termination no notice of termination, notice pay, or termination compensation was paid. The efforts made by the claimants for reinstatement and grant of legitimate dues since failed he served a demand notice on 18.06.2019 through the union. But the management did not respond to the same. Finding no other way he, on 10.07.2019 raised a dispute before the Labour Commissioner where a conciliation proceeding was initiated. The managements though appeared did not agree to the terms of conciliation. Thus, the claimant filed the present claim petition praying reinstatement with back wages.

Notice being served the management No.1 appeared and filed written statement denying the claim advanced by the claimant. Management No.2 for his absence was proceeded exparte.

Before commencement of the hearing steps were taken for a conciliation between the claimant and the management No.1. The terms of conciliation proposed by the claimant since accepted, the claimant gave a

statement to the effect that he has no grievance with regard to the termination of his service and he does not proceed with the matter and requested for disposal of the proceeding as he has no claim against the management. The statement of the claimant as per separate sheet is recorded and attached in the record. The proceeding is disposed of on conciliation as the claimant has disowned the claim against both the managements. Hence, ordered.

ORDER

The claim be and the same is disposed of for the no claim advanced by the claimant against the managements in respect of the alleged illegal termination of service. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 16 मई, 2023

का.आ. 838.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लाइफ इन्सुरेंस कॉर्पोरेशन ऑफ़ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और श्री के. रमेश, निज़ामाबाद, तेलंगाना के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, के पंचाट (रिफरेन्स न.-90/2015) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.05.2023 को प्राप्त हुआ था।

[सं. एल-17012/24/2015-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th May, 2023

S.O. 838.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 90/2015) of the Central Government Industrial Tribunal cum Labour Court, Hyderabad as shown in the Annexure, in the Industrial dispute between the employers in relation to Life Insurance Corporation of India and Shri K. Ramesh, Nizamabad, Telangana which was received along with soft copy of the award by the Central Government on 16.05.2023.

[No. L-17012/24/2015 -IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT AT HYDERABAD

Present: Sri IRFAN QAMAR, Presiding Officer

Dated the 17th day of April, 2023

INDUSTRIAL DISPUTE No. 90/2015

Between

Sri K.Ramesh,
S/o K.Lavakusha,
R/o 1-87, Mullangi(V),
Dichpally Mandal,
Nizamabad District ….Petitioner

And

1. The Zonal Manager,
Life Insurance Corporation of India,
South Central Zonal office,
Saifabad, Hyderabad-500 004.

2. The Sr. Divisional manager,
Life Insurance Corporation of India,
Divisional office, Jeevan Sagar'
Behind NTR Stadium, Gandhi Nagar,
Hyderabad-500 080.

3. The Branch Manager,
Life Insurance Corporation of India,
Nizamatbad Branch, Nijamabad-503 001 …Respondents

AWARD

The Government of India, Ministry of Labour by its order No. L- 17012/24/2015-IR(M) dated 23.9.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Life Insurance Corporation of India and their workman. The reference is,

SCHEDULE

"Whether the action of the management of Life Insurance Corporation of India, Zonal office, Hyderabad/Sub-divisional Office, Nizamabad in terminating the services after crossing 240 days continuous service of Sri K. Ramesh, Ex-Temp. Sub-staff of LIC of India, Sub-Divisional Office, Nizamabad with effect from 16.9.2014 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 90/2015 and notices were issued to the parties concerned.

2. **The averments made is the claim statement are as follows**:

It is submitted that the petitioner was appointed as temporary Sub-Staff in the year 2009 and performed as a Peon in Class- 1V Cadre in Salary Saving Scheme Department, LIC of India, Nizarmabad Branch office on payment of Rs.90/- per day and after inspection of Labour Enforcement officer (Central) in the year 2012, the management paid Rs.218/- per day and also paid Rs. 11,880/- as arrears of difference of wages from the year 2009 onwards on 03.09.2012. It is submitted that the petitioner was worked continuously without any break, to the entire satisfaction of superior officers. There were no complaints of what so ever nature against the petitioner in his entire service. It is submitted that the respondent has not issued any appointment letter and pay slip to the petitioner during his service and petitioner used to sign on the vouchers at the time of taking salary and extended any benefits like provident fund and ESI, etc.. It is submitted that the management has indulged in unfair labour practice and it is against the principles of natural justice and cheated the petitioner along with other workers by paying less wages in false and dummy names and same was brought to the notice of the Central Labour Authorities. Accordingly the Labour Enforcement officer (Central) conducted inspection and submitted report vide No.36 (5) 2012 LEO/M4, dated 06.06.2012 and advised the respondents for payment of difference of minimum wages and accordingly the respondent paid the same. It is submitted that while so, suddenly petitioner's services were orally terminated on 16.09.2014 without conducting any enquiry, notice pay, compensation is arbitrary, illegal, unjust and contrary to the provisions of Industrial Disputes Act and against the principles of natural justice. It is submitted that the petitioner gave a representation to the Assistant Labour Commissioner (Central), Mancherial, at Ramagundam, same was received on 03.11.2014 requesting to intervene the matter and to direct the respondents to reinstate the petitioner in to service. It is submitted that the Assistant Labour Commissioner (Central), Mancherial, at Ramagundam issued notice dated 17.02.2015 to the respondents for joint meetings/conciliation proceedings. Accordingly the respondents participated in joint meetings and submitted their reply on 07.03.2015, denying all the contents made in the petitioner's representation. The Assistant Labour Commissioner (Central), Mancherial, at Ramagundam closed conciliation meetings on 23.03.2015 and sent the failure report to the Government of India. It is submitted that the action of the respondent by terminating the petitioner from service w.e.f. 16.09.2014 is illegal and unjustified. The

termination is in violation of the Sec 25 F, G and H of the Industrial Dispute Act. The respondent did not give any notice and also not given any retrenchment compensation and petitioner's last drawn salary was Rs.218/- per day at the time of termination. It is submitted that the respondents made a requisition to the District Employment Officer, Nizamabad, to sponsor the candidates for the post of Attender (peon/sub-staff). The respondents refused to receive the application from the petitioner for the post of Attender, though the petitioner has worked from 2009 to 2014. Aggrieved by the same the petitioner along with other workers namely S/Sri K.Vilas. K.Sai Kumar and B.Kiran Kumar filed Writ Petition before the Hon'ble High Court, Hyderabad vide W.P. No.33593 of 2014 and the Hon'ble High Court, Hyderabad, passed the following order on 10.11.2014: "Therefore the first respondent is directed to receive the application from the petitioners and allow them to participate in the selection process including the written test and interview to the existing vacancies of post of Attender (peon/sub staff) without insisting that their names must be sponsored by the Employment Exchange." It is submitted that in spite of above Hon'ble High Court order the respondents did not receive the application from the petitioner. Non receipt of application from the petitioner is nothing but unfair labour practice and against the principles of natural justice. It is submitted that the petitioner never asked for regularization. It is submitted that entire family is depending on the petitioners income and after termination of the petitioner, they are facing untold problems and hardship. In spite of his best efforts the petitioner could not secure any other alternate employment and the petitioner is unemployed from the date of termination. It is therefore prayed to this Hon'ble Tribunal to pass an Award by setting aside oral termination order dated 16.09.2014 and direct the respondents to reinstate the petitioner into service with continuity of service, with full back wages and with all other attendant benefits.

3. **Respondent filed counter denying the averments of the Petitioner as under**:

It is submitted that the Petitioner was never appointed nor recruited as temporary sub-staff. He was neither through any of the specified processes of recruitment nor was issued any that appointment letter by any authority in LIC of India for any post/ cadre. It is submitted appointment of temporary Sub-staff are guided by the LIC of India (Staff) Regulations, 1960 which are have the statutory force of Law. The necessary instructions issued by the respondent Corporation through LIC of India (Employment of Temporary Staff) Instructions, 1993 which envisage the appointment of person as Temporary staff having requisite qualifications and sponsored by the Employment Exchange. Hence the petitioner was therefore never appointed by LIC of India at any point of time and the contention of the petitioner that he had worked continuously without any break is false. He was paid daily wages according to the norms maintained by the concerned. It is submitted that the petitioner having been engaged as a daily wager, issuance of appointment letter does not arise. He was never issued any appointment letter by any authority in LIC of India. He was paid daily wages according to the norms and his signature was obtained on the vouchers as an acknowledgement of having received the payment of wages. It is humbly submitted that the contention of the petitioner that the LIC management has indulged in unfair labour practice is false and the same is denied by the respondents. It is submitted that petitioner was paid on daily wage basis according to the laws in force. The documents filed by him in support of his defence and they are not authenticated. The allegation that the petitioner was cheated by paying less wages in false and dummy names is totally false. It is submitted that the Hon'ble Supreme court directions to LIC of India vide order dated 18.01.2011 in the Civil appeal No. 953 to 968 of 2009 to regularise the services of those temporary on employees who were working continuously for 5 years in the Corporation as 18.01.2011, by conducting a limited syllabus written examination as a onetime measure. Supreme Court has also directed LIC that - "such of those temporary employees who do not apply and or not successful shall cease to be in employment. It is clarified that those temporary persons, who are not governed under these submissions, shall also cease to be in the employment." Hence, after the recruitment process was completed, services of the petitioner were not engaged further, in strict compliance of the order of the Apex Court in Civil Appeal No.'s 953-968 of 2005, as stated above. Since the petitioner was never appointed by LIC of India by any authority or for any post and not issued any appointment letter by any authority in LIC of India, the question of termination of his services does not arise. It is submitted that in fact the provisions of ID Act are not applicable to the Petitioner and the ID Act 1947 will have no application and consequently the Industrial Tribunal will have no jurisdiction to grant any relief to the work men which was accepted by the CGIT Mumbai, in its Award dt.24.02.2000 in reference No.CGIT/2/8/1989 wherein the Hon'ble Tribunal was pleased to dismiss the reference on the ground that in as much as the grant of the benefit therein is governed by rules made by the Central Government under section 48(2)(cc), the Tribunal will have no jurisdiction to grant any relief to the workmen. In view of the fact that Regulation 8(2) of the (Staff) Regulations contains an absolute prohibition against claim for absorption by temporary staff and the said Regulation 8 (2) being a rule made by the Central Government under Section 48(2)(cc), it will have effect not withstanding anything contained in the Industrial Disputes Act, 1947 or in any other law or in any settlement, agreement or award for the time being in farer. He was neither appointed under the LIC of India (Employment of Temporary Staff) Instructions, 1993 dated 28.06.1993 nor under any other instructions issued by the Corporation from time to time. It is that the services of the petitioner were further not

compliance of the order of the Apex Court engaged, in strict in Civil Appeal No.'s 953-968 of 2005 and also as his services were further not required by the Branch Office. It is submitted that the question of reinstatement as claimed by the petitioner does not arise and the petition is devoid of merits hence the above ID case may be closed in the interest of justice.

4. Petitioner examined himself as WW1 and marked photocopies of 19 documents ie Ex.W1 to Ex.W19 in support of his claim. Respondent also examined Sri M. Satish Kumar, Admn. Officer as MW1.

5. Heard arguments of Learned Counsel for Petitioner as well as perused written arguments of both the parties.

6. **On the basis of pleadings and arguments advanced by both the parties, following points emerges for determination in the present matter**:

I. Whether the action of management of Life Insurance Corporation of India, Zonal Office Hyderabad, Sub Divisional Office Nizamabad in terminating the services of Sri K Ramesh, Ex-Temporary sub staff was in violation of provisions of Sec.25F of I.D. Act, 1947 w.e.f. 16th September, 2014?

II. If yes then, whether the petitioner is liable for reinstatement in the employment of respondent as he alleges in petition?

III. To what relief the petitioner is entitled for?

Findings:

7. **Points No. I & II**: Petitioner submitted that he was appointed as temporary sub staff in the year 2009 and performed as a Peon in class IV cadre in salary saving scheme department, LIC Nizamabad Branch Office on payment of Rs 90/- per day. And after inspection of the labor enforcement officer in the year 2012 the management paid Rs 218/- per day and also paid Rs 11,880/- as arrear of difference of wages from the year 2009 onwards on 3rd September, 2012. It is submitted that petitioner has worked continuously without any break from 13th March 2009 to 16th September 2014, completing the 240 days in a year. It's also submitted that respondent has not issued any appointment letter and pay slip to the petitioner during his service and petitioner used to sign on the vouchers at the time of taking salary and not extended any benefits like PF or ESI etc., thus the management has indulged in unfair labor practices. Further, it is submitted that suddenly petitioner services were terminated orally on 16th September, 2014 without conducting any inquiry, notice pay, compensation and the termination order is arbitrary, illegal, unjust and contrary to the provision of Industrial Dispute Act and against the principle of natural justice.

8. On the other hand, respondent submitted that the contention of petitioner that he was appointed as temporary staff in the year 2009 is false and not based on facts. He was never appointed as temporary service staff, he was neither recruited through any of the specified process of recruitment, nor issued any appointment letter by any authority in LIC of India for any post/cadre. It's also submitted that the appointment of temporary sub staff is guided by LIC of India (Staff Regulations 1960) which have the statutory force of law. Further, submitted by the respondent that petitioner having been engaged as a daily wager, hence issue of appointment letter does not arise. He was engaged purely as a daily wager, intermittently, as and when need arises during miscellaneous jobs, such as, filing, dusting, serving waters etc. He was paid daily wages according to norms and his signature was obtained on the voucher as an acknowledgement of having received the payment of wages. Salary, pay slip and other benefits such as PF are not applicable to daily wagers. It's also contended that the respondent has not been indulged in unfair labor practices. Allegation of the petitioner that he was cheated by paying less wages in false and dummy names is totally false and not based on facts. It's also submitted that as per Apex Court Direction to LIC of India, wide order dated 18th January, 2011 in Civil Appeal No. 953 to 968 of 2009, to regularize the services of those temporary employees who were working continuously for 5 years in corporation as of 18th January, 2011 by conducting a limited syllabus written examination as one time measure. Apex Court also directed that such temporary employees who don't apply or not succeed shall cease to be in employment. It's also directed that temporary persons who were not governed under these submissions shall also cease to be in employment. Hence, after the recruitment process was completed services of petitioner were not engaged. It's also submitted that since the petitioner was never appointed by LIC for any post and not issued an appointment letter by any authority of LIC of India, the question of termination of his services doesn't arise. The services of the petitioner were further not engaged in strict compliance of the order of the Apex Court as mentioned above.

9. This is an admitted fact that the petitioner was engaged by the respondent as a daily wager as and when need arising during miscellaneous jobs, such as filing, dusting, serving water and no appointment letter was issued to the petitioner for any post/cadre. The payment of wages was made to the petitioner through the voucher.

10. The Petitioner has filed photocopy of attendance register pertaining to the period from August, 2013 to September, 2014 in order to prove fact of one year continuous service before termination. No other relevant document has been filed by the Petitioner to prove that plea that he was in continuous service for 240 days within the period from date of termination 16.9.2014 to back 13.3.2009. Now we will examine whether the petitioner workman has been terminated from the service by Respondent in violation of provision as per section 25F of Industrial Dispute Act.

Section 25F provides:-

Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month' s notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

Compensation to workmen in case of transfer of undertakings.

Section 25B defines the term continuous service which provides

Definition of continuous service.- For the purposes of this Chapter,--

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock- out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

11. The contention of the petitioner is that he was appointed as temporary sub staff in the year 2009 and his service was terminated w.e.f. 16th September, 2014. As per allegation of the petitioner he has worked continuously in the service of respondent. In order to prove his plea, petitioner has filed the chief affidavit in lieu of the statement and therein he reiterate the averment of Petitioner and proved the documents Ex. W1, W2, W3, W4, W5, W6, W7, W8, W9, W10, W11, W12, W13, W14, W15, W16, W17, W18 and W19. The witness WW1, K Ramesh was cross examined by the respondent counsel, wherein he has stated that "It is true that I was engaged as a casual labor in the respondent's office, it's not true to suggest that I have not worked continuously under the respondent. It's not true to suggest that I have been informed that when work is available I will be employed." Further, witness admits that he knows the procedure for employment in Respondent organization.

12. From the perusal of the pleading as well as the statement of witness WW1, it reveals that no where petitioner has claimed that just preceding to the date of his alleged date of termination i.e., 16th September, 2014 he has completed 240 days of the continuous service in the employment of respondent. It's mandatory condition to plead and prove the fact of one year continuous service so as to cover under the protection of provision of Sec.25F of I.D. Act, 1947. As per settled law burden of proof to establish one year continuous service lies on workman but workman has failed to prove the fact of one year continuous service in the present matter.

13. The apex court In the case of Krishna Bhagya Jala Nigam Ltd., Vs. Mohammed Rafi SC Civil appeal No.3639/2006 decided on 24.8.2006 have held, "*In our opinion the Tribunal was not right in placing the onus on the Management without first determining on the basis of cogent evidence that the Respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he*

had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or Tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone the award is liable to be set aside.

14. **In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195),** *it was held that the burden was on the workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment.*

15. ***In M.P. Electricity Board v. Hariram*** ***(2004 (8) SCC 246)*** *the position was again reiterated in paragraph 11 as follows: "The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously.*

16. Whereas in the present matter petitioner has also submitted the documentary evidence. The Ex.W2 is the detail of daily wage workman who has been engaged after 2011 to 2012, wherein at Serial No. 4 the petitioner's name is mentioned as a daily wager, but it doesn't depict that the petitioner has completed 240 days just preceding the date of termination i.e., 16th September, 2014. Further, documents Ex.W4 to W7 are the photo copies of the attendance registers for different months but from these photocopies it's not clear that the petitioner has completed 240 days preceding the date of termination i.e., 16.9.2014. Documents Ex.W 8 to W 18 are the photo copies of the voucher of respondent office wherein on the back entries of payment made to the different persons are mentioned. But these details of payment are not verified by any authority of the respondent and more over these entries are not proved by the witness WW1. Therefore, in these circumstances these documents, as alleged by Petitioner the payment vouchers are of not help to the petitioner to prove the plea that he had worked continuously 240 days in one year.

17. Further, it is the allegation of the Petitioner that Management has indulged in unfair labour practice and cheated the Petitioner along with other workers by paying less wages in false and dummy name. The Respondent has denied such allegation. The Petitioner has not filed any document to show that he ever made any complaint in this respect against Respondent to authority for rectification of unfair labour practice. In the absence of any evidence this plea is unacceptable. Moreover, this plea of last wages does not prove the fact that Petitioner was in one year continuous service. On the other hand, respondent has examined, MW1 who has supported the contention made in the counter and reiterated that the petitioner was engaged purely as a daily wager intermittently as and when need arises doing miscellaneous jobs and he was paid daily wages according to norms and his signature was obtained on the voucher as an acknowledgement of having received the payment of wages. Witness further states that salary pay slips and other benefits such as PF are not applicable to daily wagers. The witness MW1 has been cross examined and he states that as the petitioner workman was not given any appointment and before the date of his disengagement no notice had been issued to the workman by the management, no compensation was also given to the workman as management has not given any appointment letter, the witness has denied the suggestion that it's not correct to suggest that as per record from the year 2009 to 16th September, 2014, the workman was working continuously without any break under the respondent management and workman is entitled for reinstatement. It was the burden of the incumbent to prove the fact that he has worked 240 days continuously in one year but he failed to discharge his burden in this respect.

18. Thus, from the discussion in foregone paragraph and on the basis of oral and documentary evidence adduced by the petitioner, Petitioner has failed to prove his plea that he has worked continuously 240 days in one year as per Sec.25B. Therefore, it can be safely concluded that his disengagement /termination w.e.f. 16th September, 2014 from service by the respondent, was not in violation of the provision of Section 25F of ID Act and action of Management in terminating the service of Petitioner is legal and justified.

19. Further, as regards another plea taken by the petitioner that his name along with other co-worker was not considered for the post of attender in compliance of the order dated 10th November, 2014, passed by Hon'ble High Court, Hyderabad in writ petition no. 33593 of 2014. In this context the respondent submitted that the respondent corporation in order to follow the laid down procedure in appointing temporary staff has written to the District Employment Officer, Nizamabad to sponsor the candidate for engaging them on temporary basis. But for technical reasons the division has not proceeded further in engaging the candidate on a temporary basis and no selection process was done. It's also contended that as such no application has been received from the petitioner including any other applicant. It's further submitted that the respondent corporation recruits the staff as per Life Insurance Corporation of India (Regulation) Act, 1960. This plea of Petitioner is not acceptable.

19. It is submitted by the Respondent that Corporation recruits the staff on a permanent basis through laid-down rules and procedures and it does not provide any instructions for regularization of the services of temporary/ daily wage workmen working in our organization. Though the petitioner is not asking for regularization, it is submitted that the petitioner was engaged as per the needs of the Office and for which purpose he was paid daily wages as per the agreed norms. It is reiterated that the services of the petitioner were further not engaged.

20. Since the Petitioner was not appointed as agent in any post, therefore, he can not claim regularization or reinstatement. **Apex Court in Himanshu Kumar Vidyarthi & Ors Vs. State of Bihar & Ors dated 26.3.1997 have** held,

"*The main grievance of the petitioners before us is that termination of their services is in violation of section 25F of the Industrial Disputes Act, 1947. The question for consideration, therefore, is whether the petitioners can be said to have been `retrenched' within the meaning of section 25 F of the Industrial Disputes Act? Every Department of the Government cannot be treated to be "industry". When the appointments are regulated by the statutory rules, the concept of "industry" to that extent stands excluded. Admittedly, they were not appointed to the post in accordance with the rules but were engaged on the basis of need of the work . They are temporary employees working on daily wages. Under these circumstances, their disengagement from service cannot be construed to be a retrenchment under the Industrial Disputes Act.*

Therefore in view of the law laid down by Hon'ble Apex Court the petitioner plea is not acceptable.

21. Another plea taken by petitioner that his termination was made in violation of Section 25G and 25H, Perused the record. The petitioner has not produced any oral or documentary evidence to prove the fact that employer has not retrenched the workman who was the last person to be employed in that category, instead the petitioner was retrenched. Hence, this plea is not acceptable. Further, as per provision under Section 25H where any workman is retrenched and the employer propose to take into his employment any person, he shall in such manner as may be prescribed give an opportunity to the retrenched workman for re-employment and who offer themselves for re-employment shall have preference over other persons but in the present matter, the petitioner has not produced any evidence that any other retrenched workman has been engaged by the respondent in preference of the petitioner. Further, as per contention of the respondent the recruitments in the respondent office are governed by the staff regulations including regulation 8 and the rules are made by the Central Government under clause (CC of sub section 2 of section 48) therefore the plea for reemployment by the petitioner is not acceptable.

22. Therefore in view of the discussion in the foregoing paragraph and examination of evidence available on the record, the petitioner has failed to prove his plea that his termination/disengagement was made in violation of Section 25F of ID Act. Therefore, he is not liable for reinstatement in the employment of the respondent.

Thus, Points No. I & II are decided accordingly.

23. **Point No. III**: In view of the discussion and determination in Points No.I & II, it is clear that the petitioner has failed to prove his claim as alleged in the petition, therefore he is not liable for any relief and his claim petition is liable to be dismissed.

ORDER

The action of the management of Life Insurance Corporation of India, Zonal office, Hyderabad/Sub-divisional Office, Nizamabad in terminating the services of Sri K. Ramesh, Ex-Temp. Sub-staff of LIC of India, Sub-Divisional Office, Nizamabad with effect from 16.9.2014 is justified. As such the Claim petition is dismissed and the Petitioner is not entitled to any relief as prayed for. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictate to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 17th day of April, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri K. Ramesh	MW1: Sri M. Satish Kumar

Documents marked for the Petitioner

Ex.W1: Photostat copy of reference from Government of India

Ex.W2: Photostat copy of list of temporary workmen

Ex.W3: Photostat copy of compliance letter to ACL(C) dt. 28.9.2012

Ex.W4: Photostat copy of attendance register for August, 2010 to December, 2010

Ex.W5: Photostat copy of attendance register for the year 2011

Ex.W6: Photostat copy of attendance register for May, 12 to September, 2012

Ex.W7: Photostat copy of attendance register for April, 2013 to May, 2013

Ex.W8: Photostat copy of wages payment voucher for January, 2012

Ex.W9: Photostat copy of payment voucher for difference minimum wages paid on 3.9.2012

Ex.W10: Photostat copy of wages payment voucher for June, 2013

Ex.W11: Photostat copy of wages payment voucher for July, 2013

Ex.W12: Photostat copy of wages payment voucher for August, 2013

Ex.W13: Photostat copy of wages payment voucher for October, 2013

Ex.W14: Photostat copy of wages payment voucher for November, 2013

Ex.W15: Photostat copy of wages payment voucher for March, 2014

Ex.W16: Photostat copy of wages payment voucher for May, 2014

Ex.W17: Photostat copy of wages payment voucher for May, 2014

Ex.W18: Photostat copy of wages payment voucher for June, 2014

Ex.W19: Photostat copy of order in WP No. 33593/2014

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मई, 2023

का.आ. 839 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लाइफ इन्सुरेंस कॉर्पोरेशन ऑफ़ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और श्री बी. किरण कुमार, निज़ामाबाद, तेलंगाना के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, के पंचाट (रिफरेन्स न.-91/2015) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.05.2023 को प्राप्त हुआ था I

[सं. एल- 17012/25/2015-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th May, 2023

S.O. 839.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 91/2015) of the Central Government Industrial

Tribunal cum Labour Court, Hyderabad as shown in the Annexure, in the Industrial dispute between the employers in relation to Life Insurance Corporation of India and Shri B. Kiran Kumar, Nizamabad, Telangana which was received along with soft copy of the award by the Central Government on 16.05.2023.

[No. L-17012/25/2015-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR** Presiding Officer

Dated the 17th day of April, 2023

INDUSTRIAL DISPUTE No. 91/2015

Between

Sri B. Kiran Kumar,
S/o B. Ramulu,
H.No.9-8-63, Gajulapet,
Nizamabad- 503101. …. Petitioner

And

1. The Zonal Manager,
Life Insurance Corporation of India,
South Central Zonal office,
Saifabad, Hyderabad-500 004.

2. The Sr. Divisional Manager,
Life Insurance Corporation of India,
Divisional office, Jeevan Sagar'
Behind NTR Stadium, Gandhi Nagar,
Hyderabad-500 080.

3. The Branch Manager,
Life Insurance Corporation of India,
Nizamatbad Branch, Nijamabad-503 001 ….Respondents

AWARD

The Government of India, Ministry of Labour by its order No. L- 17012/25/2015-IR(M) dated 23.9.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Life Insurance Corporation of India and their workman. The reference is,

SCHEDULE

"Whether the action of the management of Life Insurance Corporation of India, Zonal office, Hyderabad/Sub-divisional Office, Nizamabad in terminating the services after crossing 240 days continuous service of Sri B. Kiran Kumar, Ex-Temp. Sub-staff of LIC of India, Sub-Divisional Office, Nizamabad with effect from 16.9.2014 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 91/2015 and notices were issued to the parties concerned.

2. **The averments made is the claim statement are as follows**:

It is submitted that the petitioner was appointed as temporary Sub-Staff on 13.3.2009 and performed as a Peon in Class- 1V Cadre in Salary Saving Scheme Department, LIC of India, Nizarmabad Branch office on payment of Rs.90/- per day and after inspection of Labour Enforcement officer (Central) in the year 2012, the management paid Rs. 218/- per day and also paid Rs. 11,880/- as arrears of difference of wages from the year 2009 onwards on 03.09.2012. It is submitted that the petitioner was worked continuously without any break, to the entire satisfaction of superior officers. There were no complaints of what so ever nature against the petitioner in his entire service. It is submitted that the respondent has not issued any appointment letter and pay slip to the petitioner during his service and petitioner used to sign on the vouchers at the time of taking salary and extended any benefits like provident fund and ESI, etc.. It is submitted that the management has indulged in unfair labour practice and it is against the principles of natural justice and cheated the petitioner along with other workers by paying less wages in false and dummy names and same was brought to the notice of the Central Labour Authorities. Accordingly the Labour Enforcement officer (Central) conducted inspection and submitted report vide No. 36 (5) 2012 LEO/M4, dated 06.06.2012 and advised the respondents for payment of difference of minimum wages and accordingly the respondent paid the same. It is submitted that while so, suddenly petitioner's services were orally terminated on 16.09.2014 without conducting any enquiry, notice pay, compensation is arbitrary, illegal, unjust and contrary to the provisions of Industrial Disputes Act and against the principles of natural justice. It is submitted that the petitioner gave a representation to the Assistant Labour Commissioner (Central), Mancherial, at Ramagundam, same was received on 03.11.2014 requesting to intervene the matter and to direct the respondents to reinstate the petitioner in to service. It is submitted that the Assistant Labour Commissioner (Central), Mancherial, at Ramagundam issued notice dated 17.02.2015 to the respondents for joint meetings/conciliation proceedings. Accordingly the respondents participated in joint meetings and submitted their reply on 07.03.2015, denying all the contents made in the petitioner's representation. The Assistant Labour Commissioner (Central), Mancherial, at Ramagundam closed conciliation meetings on 23.03.2015 and sent the failure report to the Government of India. It is submitted that the action of the respondent by terminating the petitioner from service w.e.f. 16.09.2014 is illegal and unjustified. The termination is in violation of the Sec 25 F, G and H of the Industrial Dispute Act. The respondent did not give any notice and also not given any retrenchment compensation and petitioner's last drawn salary was Rs. 218/- per day at the time of termination. It is submitted that the respondents made a requisition to the District Employment Officer, Nizamabad, to sponsor the candidates for the post of Attender (peon/sub-staff). The respondents refused to receive the application from the petitioner for the post of Attender, though the petitioner has worked from 2009 to 2014. Aggrieved by the same the petitioner along with other workers namely S/Sri K.Vilas. K.Sai Kumar and B.Kiran Kumar filed Writ Petition before the Hon'ble High Court, Hyderabad vide W.P. No.33593 of 2014 and the Hon'ble High Court, Hyderabad, passed the following order on 10.11.2014: "Therefore the first respondent is directed to receive the application from the petitioners and allow them to participate in the selection process including the written test and interview to the existing vacancies of post of Attender (peon/sub staff) without insisting that their names must be sponsored by the Employment Exchange." It is submitted that in spite of above Hon'ble High Court order the respondents did not receive the application from the petitioner. Non receipt of application from the petitioner is nothing but unfair labour practice and against the principles of natural justice. It is submitted that the petitioner never asked for regularization. It is submitted that entire family is depending on the petitioners income and after termination of the petitioner, they are facing untold problems and hardship. In spite of his best efforts the petitioner could not secure any other alternate employment and the petitioner is unemployed from the date of termination. It is therefore prayed to this Hon'ble Tribunal to pass an Award by setting aside oral termination order dated 16.09.2014 and direct the respondents to reinstate the petitioner into service with continuity of service, with full back wages and with all other attendant benefits.

3. **Respondent filed counter denying the averments of the Petitioner as under**:

It is submitted that the Petitioner was never appointed nor recruited as temporary sub-staff. He was neither through any of the specified processes of recruitment nor was issued any that appointment letter by any authority in LIC of India for any post/ cadre. It is submitted appointment of temporary Sub-staff are guided by the LIC of India (Staff) Regulations, 1960 which are have the statutory force of Law. The necessary instructions issued by the respondent Corporation through LIC of India (Employment of Temporary Staff) Instructions, 1993 which envisage the appointment of person as Temporary staff having requisite qualifications and sponsored by the Employment Exchange. Hence the petitioner was therefore never appointed by LIC of India at any point of time and the contention of the petitioner that he had worked continuously without any break is false. He was paid daily wages according to the norms maintained by the concerned. It is submitted that the petitioner having been engaged as a daily wager, issuance of appointment letter does not arise. He was never issued any appointment letter by any authority in LIC of India. He was paid daily wages according to the norms and his signature was obtained on the vouchers as an acknowledgement of having received the payment of wages. It is humbly submitted that the contention of the petitioner that the LIC management has indulged in unfair labour

practice is false and the same is denied by the respondents. It is submitted that petitioner was paid on daily wage basis according to the laws in force. The documents filed by him in support of his defence and they are not authenticated. The allegation that the petitioner was cheated by paying less wages in false and dummy names is totally false. It is submitted that the Hon'ble Supreme court directions to LIC of India vide order dated 18.01.2011 in the Civil appeal No. 953 to 968 of 2009 to regularise the services of those temporary on employees who were working continuously for 5 years in the Corporation as 18.01.2011, by conducting a limited syllabus written examination as a onetime measure. Supreme Court has also directed LIC that - "such of those temporary employees who do not apply and or not successful shall cease to be in employment. It is clarified that those temporary persons, who are not governed under these submissions, shall also cease to be in the employment." Hence, after the recruitment process was completed, services of the petitioner were not engaged further, in strict compliance of the order of the Apex Court in Civil Appeal No.'s 953-968 of 2005, as stated above. Since the petitioner was never appointed by LIC of India by any authority or for any post and not issued any appointment letter by any authority in LIC of India, the question of termination of his services does not arise. It is submitted that in fact the provisions of ID Act are not applicable to the Petitioner and the ID Act 1947 will have no application and consequently the Industrial Tribunal will have no jurisdiction to grant any relief to the work men which was accepted by the CGIT Mumbai, in its Award dt. 24.02.2000 in reference No.CGIT/2/8/1989 wherein the Hon'ble Tribunal was pleased to dismiss the reference on the ground that in as much as the grant of the benefit therein is governed by rules made by the Central Government under section 48(2)(cc), the Tribunal will have no jurisdiction to grant any relief to the workmen. In view of the fact that Regulation 8(2) of the (Staff) Regulations contains an absolute prohibition against claim for absorption by temporary staff and the said Regulation 8 (2) being a rule made by the Central Government under Section 48(2)(cc), it will have effect not withstanding anything contained in the Industrial Disputes Act, 1947 or in any other law or in any settlement, agreement or award for the time being in farer. He was neither appointed under the LIC of India (Employment of Temporary Staff) Instructions, 1993 dated 28.06.1993 nor under any other instructions issued by the Corporation from time to time. It is that the services of the petitioner were further not compliance of the order of the Apex Court engaged, in strict in Civil Appeal No.'s 953-968 of 2005 and also as his services were further not required by the Branch Office. It is submitted that the question of reinstatement as claimed by the petitioner does not arise and the petition is devoid of merits hence the above ID case may be closed in the interest of justice.

4. Petitioner examined himself as WW1 and marked photocopies of 19 documents ie Ex.W1 to W20 in support of his claim. Respondent also examined Sri M. Satish Kumar, Admn. Officer as MW1.

5. Heard arguments of Learned Counsel for Petitioner as well as perused written arguments of both the parties.

6. **On the basis of pleadings and arguments advanced by both the parties, following points emerges for determination in the present matter**:

I. Whether the action of management of Life Insurance Corporation of India, Zonal Office Hyderabad, Sub Divisional Office Nizamabad in terminating the services of Sri B. Kiran Kumar, Ex-Temporary sub staff was in violation of provisions of Sec.25F of I.D. Act, 1947 w.e.f. 16th September, 2014?

II. If yes then, whether the petitioner is liable for reinstatement in the employment of respondent as he alleges in petition?

III. To what relief the petitioner is entitled for?

Findings:

7. **Points No. I & II**: Petitioner submitted that he was appointed as temporary sub staff on 13.3. 2009 and performed as a Peon in class IV cadre in salary saving scheme department, LIC Nizamabad Branch Office on payment of Rs. 90/- per day. And after inspection of the labor enforcement officer in the year 2012 the management paid Rs. 218/- per day and also paid Rs. 11,880/- as arrear of difference of wages from the year 2009 onwards on 3rd September, 2012. It is submitted that petitioner has worked continuously without any break from 13th March 2009 to 16th September 2014, completing the 240 days in a year. It's also submitted that respondent has not issued any appointment letter and pay slip to the petitioner during his service and petitioner used to sign on the vouchers at the time of taking salary and not extended any benefits like PF or ESI etc., thus the management has indulged in unfair labor practices. Further, it is submitted that suddenly petitioner services were terminated orally on 16th September, 2014 without conducting any inquiry, notice pay, compensation and the termination order is arbitrary, illegal, unjust and contrary to the provision of Industrial Dispute Act and against the principle of natural justice.

8. On the other hand, respondent submitted that the contention of petitioner that he was appointed as temporary staff in the year 2009 is false and not based on facts. He was never appointed as temporary service staff, he was neither recruited through any of the specified process of recruitment, nor issued any appointment letter by any authority in LIC of India for any post/cadre. It's also submitted that the appointment of temporary sub staff is guided by LIC of India (Staff Regulations 1960) which have the statutory force of law. Further, submitted by the respondent that petitioner having been engaged as a daily wager, hence issue of appointment letter does not arise. He was engaged purely as a daily wager, intermittently, as and when need arises during miscellaneous jobs, such as, filing, dusting, serving waters etc. He was paid daily wages according to norms and his signature was obtained on the voucher as an acknowledgement of having received the payment of wages. Salary, pay slip and other benefits such as PF are not applicable to daily wagers. It's also contended that the respondent has not been indulged in unfair labor practices. Allegation of the petitioner that he was cheated by paying less wages in false and dummy names is totally false and not based on facts. It's also submitted that as per Apex Court Direction to LIC of India, wide order dated 18th January, 2011 in Civil Appeal No. 953 to 968 of 2009, to regularize the services of those temporary employees who were working continuously for 5 years in corporation as of 18th January, 2011 by conducting a limited syllabus written examination as one time measure. Apex Court also directed that such temporary employees who don't apply or not succeed shall cease to be in employment. It's also directed that temporary persons who were not governed under these submissions shall also cease to be in employment. Hence, after the recruitment process was completed services of petitioner were not engaged. It's also submitted that since the petitioner was never appointed by LIC for any post and not issued an appointment letter by any authority of LIC of India, the question of termination of his services doesn't arise. The services of the petitioner were further not engaged in strict compliance of the order of the Apex Court as mentioned above.

9. This is an admitted fact that the petitioner was engaged by the respondent as a daily wager as and when need arising during miscellaneous jobs, such as filing, dusting, serving water and no appointment letter was issued to the petitioner for any post/cadre. The payment of wages was made to the petitioner through the voucher.

10. The Petitioner has filed photocopy of attendance register pertaining to the period from August, 2013 to September, 2014 in order to prove fact of one year continuous service before termination. No other relevant document has been filed by the Petitioner to prove that plea that he was in continuous service for 240 days within the period from date of termination 16.9.2014 to back 13.3.2009. Now we will examine whether the petitioner workman has been terminated from the service by Respondent in violation of provision as per section 25F of Industrial Dispute Act.

Section 25F provides:-

Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month' s notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

Compensation to workmen in case of transfer of undertakings.

Section 25B defines the term continuous service which provides

Definition of continuous service.- For the purposes of this Chapter:—

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock- out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employe.—

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

11. The contention of the petitioner is that he was appointed as temporary sub staff in the year 2009 and his service was terminated w.e.f. 16th September, 2014. As per allegation of the petitioner he has worked continuously in the service of respondent. In order to prove his plea, petitioner has filed the chief affidavit in lieu of the statement and therein he reiterate the averment of Petitioner and proved the documents Ex. W1, W2, W3, W4, W5, W6, W7, W8, W9, W10, W11, W12, W13, W14, W15, W16, W17, W18, W19 and W20. The witness WW1, K Ramesh was cross examined by the respondent counsel, wherein he has stated that "It is true that I was engaged as a casual labor in the respondent's office, it's not true to suggest that I have not worked continuously under the respondent. It's not true to suggest that I have been informed that when work is available I will be employed." Further, witness admits that he knows the procedure for employment in Respondent organization.

12. From the perusal of the pleading as well as the statement of witness WW1, it reveals that no where petitioner has claimed that just preceding to the date of his alleged date of termination i.e., 16th September, 2014 he has completed 240 days of the continuous service in the employment of respondent. It's mandatory condition to plead and prove the fact of one year continuous service so as to cover under the protection of provision of Sec. 25F of I.D. Act, 1947. As per settled law burden of proof to establish one year continuous service lies on workman but workman has failed to prove the fact of one year continuous service in the present matter.

13. The Apex Court in the case of Krishna Bhagya Jala Nigam Ltd., Vs. Mohammed Rafi SC Civil appeal No. 3639/2006 decided on 24.8.2006 have held, "*In our opinion the Tribunal was not right in placing the onus on the Management without first determining on the basis of cogent evidence that the Respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or Tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone the award is liable to be set aside.*

14. In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195), *it was held that the burden was on the workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment.*

*15. **In M.P. Electricity Board v. Hariram (2004 (8) SCC 246)** the position was again reiterated in paragraph 11 as follows: "The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously.*

16. Whereas in the present matter petitioner has also submitted the documentary evidence. The Ex.W2 is the detail of daily wage workman who has been engaged after 2011 to 2012, wherein at Serial No. 4 the petitioner's name is mentioned as a daily wager, but it doesn't depict that the petitioner has completed 240 days just preceding the date of termination i.e., 16th September, 2014. Further, documents Ex.W5 to W8 are the photo copies of the attendance registers for different months but from these photocopies it's not clear that the petitioner has completed 240 days preceding the date of termination i.e., 16.9.2014. Documents Ex.W 9 to W 19 are the photo copies of the voucher of respondent office wherein on the back entries of payment made to the different persons are mentioned. But these details of payment are not verified by any authority of the respondent and more over these entries are not proved by the witness WW1. Therefore, in these circumstances these documents, as alleged by Petitioner the payment vouchers are of not help to the petitioner to prove the plea that he had worked continuously 240 days in one year.

17. Further, it is the allegation of the Petitioner that Management has indulged in unfair labour practice and cheated the Petitioner along with other workers by paying less wages in false and dummy name. The Respondent has denied such allegation. The Petitioner has not filed any document to show that he ever made any complaint in this respect against Respondent to authority for rectification of unfair labour practice. In the absence of any evidence this plea is unacceptable. Moreover, this plea of last wages does not prove the fact that Petitioner was in one year continuous service. On the other hand, respondent has examined, MW1 who

has supported the contention made in the counter and reiterated that the petitioner was engaged purely as a daily wager intermittently as and when need arises doing miscellaneous jobs and he was paid daily wages according to norms and his signature was obtained on the voucher as an acknowledgement of having received the payment of wages. Witness further states that salary pay slips and other benefits such as PF are not applicable to daily wagers. The witness MW1 has been cross examined and he states that as the petitioner workman was not given any appointment and before the date of his disengagement no notice had been issued to the workman by the management, no compensation was also given to the workman as management has not given any appointment letter, the witness has denied the suggestion that it's not correct to suggest that as per record from the year 2009 to 16th September, 2014, the workman was working continuously without any break under the respondent management and workman is entitled for reinstatement. It was the burden of the incumbent to prove the fact that he has worked 240 days continuously in one year but he failed to discharge his burden in this respect.

18. Thus, from the discussion in foregone paragraph and on the basis of oral and documentary evidence adduced by the petitioner, Petitioner has failed to prove his plea that he has worked continuously 240 days in one year as per Sec. 25B. Therefore, it can be safely concluded that his disengagement /termination w.e.f. 16th September, 2014 from service by the respondent, was not in violation of the provision of Section 25F of ID Act and action of Management in terminating the service of Petitioner is legal and justified.

19. Further, as regards another plea taken by the petitioner that his name along with other co-worker was not considered for the post of attender in compliance of the order dated 10th November, 2014, passed by Hon'ble High Court, Hyderabad in writ petition no. 33593 of 2014. In this context the respondent submitted that the respondent corporation in order to follow the laid down procedure in appointing temporary staff has written to the District Employment Officer, Nizamabad to sponsor the candidate for engaging them on temporary basis. But for technical reasons the division has not proceeded further in engaging the candidate on a temporary basis and no selection process was done. It's also contended that as such no application has been received from the petitioner including any other applicant. It's further submitted that the respondent corporation recruits the staff as per Life Insurance Corporation of India (Regulation) Act, 1960. This plea of Petitioner is not acceptable.

19. It is submitted by the Respondent that Corporation recruits the staff on a permanent basis through laid-down rules and procedures and it does not provide any instructions for regularization of the services of temporary/ daily wage workmen working in our organization. Though the petitioner is not asking for regularization, it is submitted that the petitioner was engaged as per the needs of the Office and for which purpose he was paid daily wages as per the agreed norms. It is reiterated that the services of the petitioner were further not engaged.

20. Since the Petitioner was not appointed as agent in any post, therefore, he can not claim regularization or reinstatement. **Apex Court in Himanshu Kumar Vidyarthi & Ors Vs. State of Bihar & Ors dated 26.3.1997 have** held,

"*The main grievance of the petitioners before us is that termination of their services is in violation of section 25F of the Industrial Disputes Act, 1947. The question for consideration, therefore, is whether the petitioners can be said to have been `retrenched' within the meaning of section 25 F of the Industrial Disputes Act? Every Department of the Government cannot be treated to be "industry". When the appointments are regulated by the statutory rules, the concept of "industry" to that extent stands excluded. Admittedly, they were not appointed to the post in accordance with the rules but were engaged on the basis of need of the work . They are temporary employees working on daily wages. Under these circumstances, their disengagement from service cannot be construed to be a retrenchment under the Industrial Disputes Act.*

Therefore in view of the law laid down by Hon'ble Apex Court the petitioner plea is not acceptable.

21. Another plea taken by petitioner that his termination was made in violation of Section 25G and 25H, Perused the record. The petitioner has not produced any oral or documentary evidence to prove the fact that employer has not retrenched the workman who was the last person to be employed in that category, instead the petitioner was retrenched. Hence, this plea is not acceptable. Further, as per provision under Section 25H where any workman is retrenched and the employer propose to take into his employment any person, he shall in such manner as may be prescribed give an opportunity to the retrenched workman for re-employment and who offer themselves for re-employment shall have preference over other persons but in the present matter, the petitioner has not produced any evidence that any other retrenched workman has been engaged by the respondent in preference of the petitioner. Further, as per contention of the respondent the recruitments in the respondent office are governed by the staff regulations including regulation 8 and the rules are made by the Central Government under clause (CC of sub section 2 of section 48) therefore the plea for reemployment by the petitioner is not acceptable.

22. Therefore in view of the discussion in the foregoing paragraph and examination of evidence available on the record, the petitioner has failed to prove his plea that his termination/disengagement was made in violation of Section 25F of ID Act. Therefore, he is not liable for reinstatement in the employment of the respondent.

Thus, Points No. I & II are decided accordingly.

23. **Point No. III**: In view of the discussion and determination in Points No.I & II, it is clear that the petitioner has failed to prove his claim as alleged in the petition, therefore he is not liable for any relief and his claim petition is liable to be dismissed.

ORDER

The action of the management of Life Insurance Corporation of India, Zonal office, Hyderabad/Sub-divisional Office, Nizamabad in terminating the services of Sri B. Kiran Kumar, Ex-Temp. Sub-staff of LIC of India, Sub-Divisional Office, Nizamabad with effect from 16.9.2014 is justified. As such the Claim petition is dismissed and the Petitioner is not entitled to any relief as prayed for. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictate to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 17th day of April, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri B. Kiran Kumar	MW1: Sri M. Satish Kumar

Documents marked for the Petitioner

Ex.W1:	Photostat copy of reference from Government of India
Ex.W2:	Photostat copy of Minutes of conciliation proceedings dt.23.3.15
Ex.W3:	Photostat copy of list of temporary workmen
Ex.W4:	Photostat copy of compliance letter ALC(C) by the R3
Ex.W5:	Photostat copy of attendance register for August, 2010 to December, 2010
Ex.W6:	Photostat copy of attendance register for the year 2011
Ex.W7:	Photostat copy of attendance register for May, 12 to September, 2012
Ex.W8:	Photostat copy of attendance register for April, 2013 to May, 2013
Ex.W9:	Photostat copy of wages payment voucher for January, 2012
Ex.W10:	Photostat copy of payment voucher for difference minimum wages paid on 3.9.2012
Ex.W11:	Photostat copy of wages payment voucher for June, 2013
Ex.W12:	Photostat copy of wages payment voucher for July, 2013

Ex.W13: Photostat copy of wages payment voucher for August, 2013

Ex.W14: Photostat copy of wages payment voucher for October, 2013

Ex.W15: Photostat copy of wages payment voucher for November, 2013

Ex.W16: Photostat copy of wages payment voucher for March, 2014

Ex.W17: Photostat copy of wages payment voucher for May, 2014

Ex.W18: Photostat copy of wages payment voucher for May, 2014

Ex.W19: Photostat copy of wages payment voucher for June, 2014

Ex.W20: Photostat copy of order in WP No. 33593/2014

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मई, 2023

का.आ. 840.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लाइफ इन्सुरेंस कॉर्पोरेशन ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और श्री पी. दुर्गा प्रसाद, कृष्णा (आंध्रा प्रदेश) के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, पंचाट (रिफरेन्स नं.-112/2014) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.05.2023 को प्राप्त हुआ था।

[सं. एल-17012/33/2014-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th May, 2023

S.O. 840 .—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 112/2014) of the Central Government Industrial Tribunal cum Labour Court, Hyderabad as shown in the Annexure, in the Industrial dispute between the employers in relation to Life Insurance Corporation of India and Shri P. Durga Prasad, Krishna (Andhra Pradesh) which was received along with soft copy of the award by the Central Government on 16.05.2023.

[No. L- 17012/33/2014-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT AT HYDERABAD

Present: Sri IRFAN QAMAR**,** Presiding Officer

Dated the 16th day of March, 2022

INDUSTRIAL DISPUTE No. 112/2014

Between:

Sri P. Durga Prasad,
S/o Late P. Raja Rao,
D.No.2-9, Opp. Pasuvula Hospital,
Peda Parupudi,(P.O.)
Krishna Distt ….Petitioner

AND

1. The Sr. Divisional Manager,
   LIC of India, Divisional Office,
   Kennedy Road, Machilipatnam-521001.

2. The Branch Manager,
   LIC of India, Gudivada Branch,
   Gudivada, Krishna Distt. ….Respondents

Appearances:

For the Petitioner : Sri Sri Tata Singaiah Goud, Advocate
For the Respondent : Sri B S R Murthy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No.L-17012/ 33/2014-IR(M) dated 7.7.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of LIC of India and their workman. The reference is,

SCHEDULE

"Whether the removal from service of Sri P. Durga Prasad, Ex-Temp. Class-IV LIC of India, Gudivada Branch w.e.f. 24.1.2013 is legal and justified? If not, what other relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 112/2014 and notices were issued to the parties concerned and the Petitioner entered appearance. Petitioner filed claim statement and Respondent filed counter statement.

1. Both parties are absent on the date of hearing. Perusal of the record reveals that the case is fixed for Petitioner's evidence and Petitioner is absent since 27.12.2017. No evidence adduced by the Petitioner to substantiate his claim statement.

2. It thus becomes crystal clear that the petitioner seems to be not interested in pursuing his case and as such a no claim award is given against the workman/petitioner. As such, a 'No Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 16th day of March, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मई, 2023

का.आ. 841.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स बोकाजन सीमेंट फैक्ट्री, सीमेंट कॉर्पोरेशन ऑफ इंडिया, असम के प्रबंधतंत्र के संबद्ध नियोजकों और

बोकजन सीमेंट फैक्ट्री लेबर यूनियन, असम के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (रिफरेन्स न. -16/2020) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.05.2023 को प्राप्त हुआ था।

[सं. एल- 29011/7/2017-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th May, 2023

S.O. 841.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 16/2020) of the Central Government Industrial Tribunal cum Labour Court, Guwahati as shown in the Annexure, in the Industrial dispute between the employers in relation to M/S Bokajan Cement Factory, Cement Corporation of India, Assam and Bokajan Cement Factory Labour Union, Assam which was received along with soft copy of the award by the Central Government on 16.05.2023.

[No. L-29011/7/2017 -IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM.

Present: Shri ANANDA KUMAR MUKHERJEE. Presiding Officer /Link Officer, CGIT-cum-Labour Court, Guwahati.

REFERENCE CASE NO. 16 of 2020.

PARTIES: The General Secretary, Bokajan Cement Factory Labour Union, Cement Corporation of India, Bokajan, Karbi Anglong, Assam. ….Workmen/Union.

-Vrs-

M/S Bokajan Cement Factory, Cement Corporation of India, Bokajan, Karbi Anglong, Assam. ….OP/Management.

REPRESENTATIVES:

For the Workmen/Union : None
For the Management. : None

INDUSTRY : Cement Factory
STATE : Assam.
Date of Award : 12/05/2023.

AWARD

In exercise of powers conferred under clause (d) of sub–section (1) and Sub-Sec (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its order No. **L-29011/7/2017-IR(M) dated 03-12-2020** has been please to refer the following dispute between the

employer, that is the Management of M/S Bokajan Cement Factory and their Workmen for adjudication by this Tribunal.

SCHEDULE

"1) Whether the demand of Bokajan Cement Factory Labour Union for age relaxation at the time of recruitment for regular vacancies of temporary worker in respect of the 35 contractual workmen (List Attached) who have been working since 02-03 years with the same management under different contractors is justified and legal?

2) Whether during the pendency of conciliation the action of the management of M/s Cement Corporation of India in recruiting some disputed cadre vide Employment notice No.2/2016 is fair & legal under sec. 2(ra) of the Industrial disputes Act, 1947. If not, then what relief the 35 Contractual workmen (list attached) are entitled to?"

3) On the basis of said order instant case has been registered on 29.12.2020 and notices were issued to the Management and the workmen/Union for appearance and filing claim statement and written statement. Since initiation of this proceeding, more than 2 years have passed but none of the parties have appeared after two consecutive notices were issued. The case is fixed up today for appearance of parties and filing of claim statement and written statement. On repeated calls at 12-40 p.m. none appeared for the parties nor any step has been taken on their behalf. Considering the circumstances it appears to me that ample opportunity has been provided but the concerned Union, representing the workmen is not inclined to pursue this case. The Reference Case is therefore dismissed of in the form of a no dispute award.

Hence,

ORDERED

That the reference Case is dismissed in the form of a **No Dispute Award**. Let copies of the Award be communicated to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 16 मई, 2023

का.आ. 842.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंदिरा गाँधी एम्प्लाइज' स्टेट इन्सुरेंस कॉर्पोरेशन हॉस्पिटल, दिल्ली; 3573, बालाजी कुमार पांडा सिक्योरिटी एजेंसी, नई दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और श्री हरी ओम, दिल्ली के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली के पंचाट (रिफरेन्स न. -246/2021) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.05.2023 को प्राप्त हुआ था।

[सं. जेड-16025/04/2023-आईआर(एम)-41]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th May, 2023

S.O. 842.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 246/2021) of the Central Government Industrial Tribunal cum Labour Court-2, New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to Indira Gandhi Employes' State Insurance Corporation Hospital, Delhi; 3573, Balaji Kumar Panda Security Agency, New Delhi and Shri Hari Om, Delhi which was received along with soft copy of the award by the Central Government on 16.05.2023.

[No. Z-16025/04/2023-IR(M)-41]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present: Smt. PRANITA MOHANTY, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 246/2021

Date of Passing Award- 2nd May, 2023

Between:

Shri Hari Om, S/o Sh. Mahipal Sharma,
R/o F-100, Gali no. 04, West Karawal Nagar,
Delhi-110094. ….claimant.

Versus

1. The Medical Superintendent,
Indira Gandhi Employees' State Insurance Corporation Hospital,
Jhilmil Colony, Delhi–110095.

2. 3573, Balaji Kumar Panda Security Agency,
Shop No.G–30, Block–C–6B, Vikas Surya Plaza,
DDA Commercial Complex, Janakpuri,
New Delhi–110058. ….Managements

Appearances:-

Claimant in person
Shri Rohit Bhagat, Ld.A/R for the Management No.1
None for the management No.2

AWARD

This is an application filed by the claimant against the management No.1 and 2 alleging illegal termination of his service.

In the claim petition it has been stated that he was working in the premises of management No.1 through the service provider management No.2 since 10.12.2016 as a Security Guard. His last drawn wage per month was Rs.14000/-. The management was not extending the benefits of leave, PF, ESI etc to the claimant despite demand. No appointment letter or salary slip was even provided by the employer. Thus, the claimant was often demanding those legitimate entitlements. The management instead of extending the benefit to him, on 01.04.2019 illegally terminated his service and at the time of termination no notice of termination, notice pay, or termination compensation was paid. The efforts made by the claimants for reinstatement and grant of legitimate dues since failed he served a demand notice on 18.06.2019 through the union. But the management did not respond to the same. Finding no other way he, on 10.07.2019 raised a dispute before the Labour Commissioner where a conciliation proceeding was initiated. The managements though appeared did not agree to the terms of conciliation. Thus, the claimant filed the present claim petition praying reinstatement with back wages.

Notice being served the management No.1 appeared and filed written statement denying the claim advanced by the claimant. Management No.2 for his absence was proceeded exparte.

Before commencement of the hearing steps were taken for a conciliation between the claimant and the management No.1. The terms of conciliation proposed by the claimant since accepted, the claimant gave a statement to the effect that he has no grievance with regard to the termination of his service and he does not proceed with the matter and requested for disposal of the proceeding as he has no claim against the management. The statement of the claimant as per separate sheet is recorded and attached in the record. The proceeding is disposed of on conciliation as the claimant has disowned the claim against both the managements. Hence, ordered.

ORDER

The claim be and the same is disposed of for the no claim advanced by the claimant against the managements in respect of the alleged illegal termination of service. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 18 मई, 2023

का.आ. 843.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बीजीआर माइनिंग इन्फ्रा लिमिटेड, हैदराबाद के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 32/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.05.2023 को प्राप्त हुआ था।

[सं. एल- 20012/41/2022-आईआर (सी एम-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 18th May, 2023

S.O. 843.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2022*)* of the Central Government Industrial Tribunal-cum-Labour Court NO. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the Management of BGR Mining Infra Ltd, Hyderabad and their workmen, received by the Central Government on 18/05/2023

[No. L- 20012/41/2022-IR(CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act. 1947.

Reference: No. 32/2022

Employer in relation to the management of BGR Mining Infra Ltd, Hyderabad

AND.

Their workman.

Present: Dr. S.K. THAKUR, Presiding Officer

Appearances:

For Employer :- Sri Sanjay Besra, H/R Manager.
For Workma :- Sri Rajesh Ranjan, Representative.

State : Jharkhand. Industry:- Coal Dated 28/04/2023

AWARD

By Order No.L-20012/41/2022-IR(CM-I) dated 28.10.2022 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of Central President, Jharkhand Mazdoor Kalyan Sangh to the management of BGR Mining Infra Ltd, Hyderabad for payment of due minimum wages since 01.05.2021, payment of due bonus, payment for working on rest day and payment of overtime to 31 security guards (list enclosed) engaged by BGR Mining Infra Ltd. Hyderabad in his site Amrapara, Jharkhand is proper, legal and justified? If yes, to what relief these security guards concerned are entitled?"

List of Security Guards

1. देवी लाल सोरेन	2. बिनोद टोप्पो
3. फेकारुल अंसारी	4. नित्यानन्द झा
5. साइमन मूर्मु	6. रोहित मंडल
7. मास्टर अजीज	8. कुन्दन कुमार तुरी
9. मिठुन यादव	10. जिवानन्द तुरी
11. माइकल हेम्ब्रम	12. दयाल मंडल
13. बलराम लोहार	14. कन्हाई मंडल
15. कुणाल महतो	16. रोहित चौधरी
17. चान्द मंडल	18. लखिन्दर मराण्डी
19. मंटू यादव	20. मनोज हेम्ब्रम
21. मनोज कु॰ ठाकुर	22. ओनेश हाँसदा
23. विभीषण हाँसदा	24. भीम सिंह
25. धीरज साह	26. देवेन्द्र प्र॰ साह
27. अनोज कुमार	28. शोएब अंसारी
29. अमित कुमार	30. भोला हाँसदा
31. मार्शल मूर्मु	

2. The reference is received on 15/11/2022 by this Tribunal in which the Central President, Jharkhand Mazdoor Kalyan Sangh, Godda had been advised to submit statement of claim along with relevant document within fifteen days but the union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed and both the parties appeared for certain dates. Further during the pendency of the case, the Representative of concerned workman Sri Rajesh Ranjan appeared on 13/02/2022 and submitted that since the matter of reference has been resolved through the negotiation with the management in this regard and affidavit signed by the concerned workman has already been filed before this court and so prayed the matter may be allowed to be withdrawn which was allowed. Hence "No Claim" Award is passed. Communicate.

Let copy of this award be sent to the Appropriate Government as required under section 17 of the Act for publication.

Dr. S.K. THAKUR, Presiding Officer

नई दिल्ली, 18 मई, 2023

का.आ. 844.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (05/2014) प्रकाशित करती है।

[सं. एल- 12011/80/2013-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 18th May, 2023

S.O. 844 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 05/2014) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Central Bnak of India and their workmen.

[No. L-12011/80/2013-IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

Present: Justice ANIL KUMAR**,** Presiding Officer

I.D. No. 05/2014

Ref. No. L-12011/80/2013-IR(B-II) dated 22.01.2014

BETWEEN

Shri J.M. Mishra, General Secretary
Central Bank Employees Congress (UP)
MIG-C-1241, Rajaji Puram, Lucknow – 226017

AND

Zonal Manger
Cental Bank of India, Zonal Office
Akashdeep, 23, Vidhan Sabha Marg
Lucknow.

AWARD

By order No. L-12011/80/2013-IR(B-II) dated 22.01.2014 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

"क्या प्रबंधक, सेंट्रल बैंक ऑफ़ इंडिया, द्वारा सेंट्रल बैंक एम्प्लाइज कांग्रेस, यू०पी० की मान्यता वर्ष 2009-2010 से समाप्त करना व् संयुक्त वार्ता न करना उचित एवं वैधानिक है? यदि नहीं तो यूनियन किस राहत को पाने की हक़दार है?"

Accordingly, an industrial dispute No. 05/2014 has been registered on 03.03.2014.

Sri J.M. Mishra, General Secretary of the Central Bank Employee's Congress on behalf of the claimant submits that he does not want to contest/pursue the case as during the passage of time the controversy in the present case has become infructuous so the present reference may be dismissed.

Findings & Conclusion:

I have heard Sri J.M. Mishra, General Secretary of the Central Bank Employee's Congress and perused the record, from the same the position which emerges out is that till date no statement of claim has been filed by the Union in order to establish its claim as per the reference dated 22.01.2014.

So, in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of *V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194* as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of *M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164* Hon'ble Allahabad High Court has held as under:

> *"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at*

all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And by the Hon'ble Allahabad High Court in the case of *District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519;* wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

Taking into consideration the above said facts and the submissions as made by Sri J.M. Mishra that during the passage of time the controversy/reference which has been made to this Tribunal has become infructuous, so the present case may be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman's union is not entitled for any relief.

Award as above.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 18 मई, 2023

का.आ. 845.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (29/2019) प्रकाशित करती है।

[सं. एल- 12012/35/2018-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 18th May, 2023

S.O. 845 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.29/2019) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Punjab and Sindh Bank and their workmen.

[No. L-12012/35/2018-IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

Present: Justice ANIL KUMAR**,** Presiding Officer

I.D. No. 29/2019

Ref. No. L-12012/35/2018-IR(B-II) dated: 02.11.2018

BETWEEN

Shri Chayan Ghosh Choudhary
R/o 189, Rabindrapalli
Lucknow – 226016

AND

The Zonal Manager
Punjab & Sindh Bank
Zonal Office, Gangadeep Complex

148, Civil Lines, Bareilly – 243001

AWARD

By order No. L-12012/35/2018-IR(B-II) dated: 02.11.2018 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> **"WHETHER THE ACTION OF THE DISCIPLINARY AUTHORITY, PUNJAB AND SINDH BANK, ZONAL OFFICE, GAGANDEEP COMPLEX, 14, CIVIL LINES, BAREILLY – 243001 IN GIVING THE PUNISHMENT TO SHRI VIJAY KUMAR, PART TIME SWEEPER IS DURING THE PENDENCY OF THE CONCILIATION PROCEEDINGS IS JUST, LEGAL AND FAIR? IF NOT, WHAT REMEDIES LIE FOR THE UNION UNDER THE PROVISIONS OF SECTION 33 OF THE INDUSTRIAL DISPUTES ACT, 1947."**

Accordingly, an industrial dispute No. 29/2019 has been registered on 16.08.2019.

From the perusal of record, the position which emerges out is that the till date the claimant/workmen's Union has not field any statement of claim.

Heard Shri Chayan Ghosh Chaudhary for workman and Shri Prakhar Tiwari, holding brief of Shri P. K. Tiwari, learned counsel/representative appearing on behalf of the opposite party.

Shri Chayan Gosh Chaudhary submits that the claimant, Vijay Kumar is working as part time sweeper at Punjab & Sindh Bank has been placed under suspension by an incompetent authority. Accordingly, conciliation proceedings have been initiated. During pendency of conciliation proceedings, the Disciplinary Authority issued charge sheet to the claimant and during pendency of conciliation proceedings the Disciplinary Authority has passed a punishment order against the claimant.

In view of the above scenario the industrial dispute has been raised before this Tribunal.

I have heard Shri Chayan Ghosh Chaudhary for workman and Shri Prakhar Tiwari, holding brief of Shri P. K. Tiwari, counsel/representative for opposite party and also gone the record.

In order to decide the controversy in dispute it will be appropriate to go through the provisions of Section9A, 33 and Schedule IV of the Industrial Disputes Act, 1947, which reads as under:

"9A. Notice of change.—No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,—

> *(a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or*
>
> *(b) within twenty-one days of giving such notice:*
>
> *Provided that no notice shall be required for effecting any such change—*
>
> > *(a) where the change is effected in pursuance of any 2 [settlement or award]; or*
> >
> > *(b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.*

[33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.—(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before 1 [an arbitrator or] a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,—

> *(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or*

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute,

save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute 2 [or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman],—

(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or

(b) for any misconduct not connected with the dispute, or discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute—

(a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or

(b) by discharging or punishing, whether by dismissal or otherwise, such protected workman,

save with the express permission in writing of the authority before which the proceeding is pending.

Explanation.—*For the purposes of this sub-section, a "protected workman", in relation to an establishment, means a workman who, being 3 [a member of the executive or other office bearer] of a registered trade union connected with the establishment, is recognised as such in accordance with rules made in this behalf.*

(4) In every establishment, the number of workmen to be recognised as protected workmen for the purposes of sub-section (3) shall be one per cent. of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognised as protected workmen.

(5) Where an employer makes an application to a conciliation officer, Board, 1 [an arbitrator, a] labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, 4 [within a period of three months from the date of receipt of such application], such order in relation thereto as it deems fit:]

[Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit:

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.]

THE FOURTH SCHEDULE (See section 9A) CONDITIONS OF SERVICE FOR CHANGE OF WHICH NOTICE IS TO BE GIVEN

1. Wages, including the period and mode of payment;

2. Contribution paid, or payable, by the employer to any provident fund or pension fund or for the benefit of the workmen under any law for the time being in force;

3. Compensatory and other allowances;

4. Hours of work and rest intervals;

5. Leave with wages and holidays;

6. Starting, alteration or discontinuance of shift working otherwise than in accordance with standing orders;

7. Classification by grades;

8. Withdrawal of any customary concession or privilege or change in usage;

9. Introduction of new rules of discipline, or alteration of existing rules, except in so far as they are provided in standing orders;

10. Rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of workmen; 11. Any increases or reduction (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift, 1 [not occasioned by circumstances over which the employer has no control].

As per the facts on record the admitted position is that no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 28.11.2018.

And taking into consideration the said facts as well as the the law laid by Hon'ble High Court in the case of *V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194* as under:

"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."

In the case of *M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*; wherein the Hon'ble Allahabad High Court has held as under:

"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And Hon'ble Allahabad High Court in the case of *District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519* has held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

As the workman/claimant has not filed any statement of claim/oral/documentary evidence, so the same is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 18 मई, 2023

का.आ. 846.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोलकाता पोर्ट ट्रस्ट के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (43/2015) प्रकाशित करती है।

[सं. एल- 32011/01/2015-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 18th May, 2023

S.O. 846.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.43/2015) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata as shown in the Annexure, in the industrial dispute between the management of Kolkata Port Trust and their workmen.

[No. L-32011/01/2015-IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. BHUTIA, Presiding Officer

REF. NO.43 OF 2015

PARTIES: Employers in relation to the management of Kolkata Port Trust

AND

Their Workman.

Appearance :

On behalf of Management : Smt. Monalisa Das, Law Assistant.
On behalf of the Workmen : Sri K. K. Banerjee, Working President.

Dated 02nd January, 2023

AWARD

This is a Reference Case under section 10 (1) (d) of I.D.Act, referred by the Govt. of India, Ministry of Labour, under Reference No. L-32011/01/2015(IR) (B-II), for determination of the schedule issue

> **"whether the action of the Management of KOPT in not giving the benefit of two ACPs i.e. one on completion of 12 years of service and another on completion of 24 years of service in the service career of Sri Sekhar Ghosh is legal or justified? If not, to what relief the concerned workman is entitled to?**"

On receiving such reference notices were duly served upon the employer/ Management KOPT and to the Union who has espoused the cause of the concerned workman.

The Union in its claim statement has alleged the concerned workman Sri Sekhar Ghosh, was a Stenographer of Calcutta Port Trust. That he was deprived of the benefit of ACP Scheme since August, 2000 inspite of being recommended for the benefit by the Deputy Chairman of Calcutta Port Trust by the Finance Department of KOPT and who refused to certify the up gradation of Sri Ghosh from August, 2000.

It has been alleged that ACP Scheme given effect in the establishment of the KOPT from August, 2000. Sri Ghosh was treated as a Stenographer of Basic Grade till the end of February, 2001 as he was

promoted as Grade-II Stenographer in the month of March, 2001, under FR-22 (C) without giving upgradation from 1984.

Sri Ghosh's second up gradation was also pending from March, 2008 on completion of 24 years of service as regular and permanent Stenographer of KOPT. Sri Ghosh has completed his first qualified period of 12 years in the year 1996 and during that period no promotion or up gradation has been given to him. During his long service career of more than 35 years he was given only one regular promotion from Basic Grade to Grade-II.

Sri Ghosh was initially recruited through Employment Exchange at Hydraulic Study Department of KOPT as an L.D.C. on 2nd January, 1978. Sri Ghosh joined Traffic Department of KOPT (Basic Grade) after he qualified in the Inter departmental competitive examination against a Department Circular and remain the same grade till the end of February, 2001 i.e. for 17 years.

Sri Ghosh retired as a Stenographer, Gr.II on 1st May, 2013. That from 1984 till his retirement on 1st May, 2013 i.e. for more than 28 years as Stenographer Sri Ghosh was given only a single promotion and was not given benefit of ACP Scheme. Therefore, Union has prayed to grant ACP to Sri Ghosh on his completion of 12 years of services as Stenographer in the year 1996 and benefit of second ACP from March, 2008.

Such claim of the Union has been contested by the Management, by filing Written Statement, where it has been contended that during the pendency of the present proceeding before this Tribunal, the management held that Sri Sekhar Ghosh who was initially appointed as an L.D. Clerk in the establishment in the year 1978 was appointed as a Stenographer Basic Grade on 01-03-1984, on his qualifying the recruitment examination.

The Management introduced ACP Scheme for Class-III and Class –IV of KOPT w.e.f. 02-08-2000. All employees of Class-III & IV have been granted two financial upgradation in their entire service career provided no regular promotion during the prescribed period was availed by them.

That Sri Sekhar Ghosh completed 12 years of his service in the post of Stenographer, Basic Grade, without any promotion on 01-03-1996 and as such he was given the benefit of first ACP w.e.f. 02-08-2000, the day the ACP scheme was given effect. That he was promoted to the post of Stenographer, Grade-II on 23-02-2001.

That he completed his further 12 years of service or in total 24 years of service as Stenographer on 01-03-2008. Therefore, he was granted 2nd ACP w.e.f. 01-03-2008 in the scale of Stenographer, Grade-I.

Thus, he was paid all his legal dues to which he was entitled till his retirement as Stenographer, Gr.I on 30th April, 2013 as an arrear. That his pay was upgraded to Rs.45,130/- w.e.f. 01-08-2012 vide office letter no. ADMN/1757/407 dated 22-11-2018 and his pension benefit has already been computed considering his revised Basic Pay Rs.45,130/- w.e.f. 01-08-2012.

Therefore, it is alleged that there is no merit in the demand made by the Union as the demand has already been settled by the Board and the relief thereof has already been given effect to Sri Ghosh and who has been paid all his legal dues. Therefore, prays, present reference case may be disposed of by passing no dispute award.

The order dated 23-07-2019 passed by this Tribunal shows that both the sides had declined to adduce any evidence and agreed the reference may be decided on the basis of the documents filed by them.

Thus, report of the Departmental Screening Committee dated 14-07-2010, copy of IPA's forwarding letter No.IPA/MD/BWNC/2003/Vol.III, copy of letter No. NU/RL;C/15/14/08 dated 17-01-2014, copy of staff recommendation forms dated 14-04-2001, 10-04-2001 and 22-09-2010 and copy of letter from Sri D. Mukherjee, Assistant Secretary No.Admn/4646/1 dated 19-07-2010 have been marked from the side of the Union as Exhibit- W/1 to W/6.

While copy of letter No.Admn/1757/407 dated 22-11-2018 and copy of letter No.Fin/PSLI/18/1794 dated 04-01-2019 have been marked from the side of the Management as Exhibit-M/1 and Ext. M/2.

Perused the documents that have been produced from the side of the parties and from where it appears that ACP scheme for Class-III & Class-IV employees of KOPT was introduced and given effect from 02-08-2000. That the Management treated the appointment of Sri Sekhar Ghosh, (its Ex. L.D. Clerk) to the post of Stenographer Basic Grade as a direct recruit to the said post on 01-03-1984. He was promoted to Grade-II only on 23-02-2001. That he superannuated from service on 30th April, 2013.

On introduction of ACP scheme he was given benefit of Gr.II Stenographer with effect from 02-08-2000, the day the scheme was introduced till his next promotion on 23-02-2001. Since he was already promoted

and was drawing pay scale of Stenographer, Gr.II till his retirement and as such he was again given benefit of ACP scheme on completion of 24 years of service as Stenographer, Gr.I .w.e.f. 01-03-2008.

All such benefits were given to him after his retirement from the service. The documents filed by the Management shows all his legal dues were duly calculated and paid to him through his Bank Account. That his salary was fixed at Rs.45,130/- w.e.f. 01-08-2012 and thereby his pension was fixed on such revised pay of Rs.45,130/-.

The Union had alleged in its claim application that there was some miscalculation in calculating the arrear due of the workman. Unfortunately, neither the workman nor the Union appeared before the Tribunal to point out the miscalculation made by the Management while assessing the legal dues of the workman. In fact, Ext. M/1 and Ext.M/2 prove the entire due which the Union or workman has claimed against the Management has already been cleared by the Management.

Therefore, there exists no cause of action to raise the present dispute against the Management. Accordingly, no dispute award is passed.

The Reference Case No.43 of 2015 is disposed of without any cost.

Let a copy of this award be sent to the Ministry and parties concerned for information.

Justice K. D. BHUTIA, Presiding Officer

नई दिल्ली, 18 मई, 2023

का.आ. 847.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कॉर्पोरेशन बैंक के प्रबंधतत्र, संबंद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (03/2013) प्रकाशित करती है।

[सं. एल- 12011/59/2012-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 18th May, 2023

S.O. 847 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 03/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata as shown in the Annexure, in the industrial dispute between the management of Corporation Bank and their workmen.

[No. L-12011/59/2012-IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. BHUTIA, Presiding Officer

REF. NO.03 OF 2013

Parties: Employers in relation to the management of

Corporation Bank, Zonal Office

AND

Their Workmen

Appearance :

On behalf of Management : None
On behalf of the Workmen : None

Dated 9th January, 2023

AWARD

The government of India, Ministry of labour in exercise of power conferred under section 10 (1)(d) & 2A of the Industrial Dispute Act, 1947 has referred the following dispute to this Tribunal for adjudication.

" Whether the action of the management of Corporation Bank in orally terminating the services of Shri Tapan Roy, a part-time Sweeper of Malda Branch, during the conciliation process with effect from date 10.12.2011 is legal and justified? Whether the demand of the Union for regularization of service of Shri Tapan Roy a part-time Sweeper is justified. What relief the Workman is entitled to?"

It is the case of the Union that Tapan Roy was engaged by the bank to work as a part-time Sweeper at its branch at Malda on 22.01.20 11, the day the branch was opened. The workman continued to work for Bank without any break till his service was terminated orally on 10.12.2011 and when the conciliation proceeding was pending before the labour commissioner on the basis of dispute raised by the Union on 26.09.2011.

It has also been alleged by the Union, the concerned Workman had worked for 323 days uninterruptedly from 22.01.2011 to till his termination on 10.12.2011. The oral termination of Tapan Roy during the pendency of conciliation proceeding is in violation of Section 33 of ID Act, and without complying with section 20 5(F) of the Industrial Dispute Act is illegal, arbitrary and unfair.

Therefore, the union has prayed for reinstatement of Tapan Roy along with consequential benefits and for regularization of his appointment.

On the other hand, the management in its written statement has alleged the alleged workman was never employed by the bank at any point of time and as such there was no privity of contract between the bank and the alleged workman. The bank being a nationalized bank is guided by the guidelines framed by the government for recruitment of part-time sweeper fulfilling the eligibility criteria/condition stipulated against the permanent vacancy. The concerned workman not being an employee of the bank there exist no relationship of employer and employee. The union has no locus standi to represent the cause of the alleged workman or raise a dispute before the labour commissioner. There exist no industrial dispute and present reference is not maintainable.

Unfortunately, the union who has raised the dispute on behalf of the alleged workman has failed to adduce evidence and produce documents to prove indeed the alleged workman used to work in Malda branch of the bank as a part-time sweeper from the day the branch was opened in Malda on 20.01.2011. More so, the record shows since 30.07.2018, the union who is representing the concerned workman has failed to appear and pursue the matter by adducing oral and documentary evidence in support of its claim. The workman too has failed to appear before the tribunal to pursue his case.

Under the circumstances, it can be assumed that union and the concerned Workman are no more interested to proceed with the hearing of the present reference case and pursue their cause.

Therefore, this Tribunal holds that there exist no dispute to adjudicate at this stage. Accordingly, the present reference case no.03 of 2013 is disposed of.

Send copy of this award to the Ministry of labour for doing needful.

Supply copy of this award to the parties as per law.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 18 मई, 2023

का.आ. 848.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर मध्य रेलवे के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (45/2014) प्रकाशित करती है।

[सं. एल- 41011/56/2014-आईआर(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 18th May, 2023

S.O. 848.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 45/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of North Central Railway and their workmen.

[No. L-41011/56/2014-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

Present: Justice ANIL KUMAR, Presiding Officer

I.D. No. 45/2014

L-41011/56/2014-IR(B-I) dated 03.07.2014

BETWEEN

Working President
Rail Sewak Sangh
C/o Shri S.N. Srivastava
J-422, Inderlok Colony, Kanpur Road
Lucknow.

AND

Chief Engineer
North Central Railway
Head Qrs. Office
Subedarganj, Allahabad.

AWARD

1. By order/letter dated 03.07.2014 as per provisions of clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as Act) the Central Government referred this industrial dispute to this CGIT-cum-Labour Court, Lucknow for adjudication

"**क्या प्रबंधन, उत्तर रेल्वे द्वारा श्री एस. एन. श्रीवास्तव, ब्रिज इंस्पेक्टर/जे. ई. (ब्रिज) को ए सी पी /तृतीय वित्तीय upgradation ग्रेड पे 4600 और 4800 का लाभ दिनांक 01-04-2008 से न दिया जाना ब्यायोचित एवं वैध है? यदि नहीं, तो कामगार किस राहत को पाने का हकदार है?**"

2. Heard Sri U.K. Bajpai, learned counsel for railways.

Sri U.K. Bajpai on behalf of the respondent submits that the claimant was working on the post of Junior Engineer, and the work which was performed by him during the course of his service/employment is supervisorial and managerial in nature; as such, he does not come within the definition of 'workman' as provided u/s 2(s) of the Industrial Disputes Act, 1947 and he also retired from the said post, so the present case is liable to be dismissed.

Moreover, from the perusal of record the positon which emerge out is that for last so many dates fixed in the matter neither workman nor his authorized representative has appeared to pursue his case. Today again none is present on behalf of workman.

3. Accordingly, I have heard learned counsel for railways and going through record the position which emerge out is that after filing of the written statement by the workman he has not filed any evidence.

Thus, taking into consideration the above said facts and the submissions made by the learned counsel for respondent, the position which emerges out is that no documentary or oral evidence has been filed on behalf of the claimant/workman to support his claim in order to prove that he falls within ambit and scope of definition of 'workman' as provided u/s 2 (s) of the Industrial Disputes Act, 1947.

So keeping in view said fact as well as the law laid down by the Hon'ble Apex Court in *Shivnanad Sharma v. Punjab Nation Bank AIR 1955 SC 404* and in the case of *S. Harinam Singh v. Sand Bank Ltd, Dehradun and another, 1978 (37) FLR 40* wherein it has been held that "*party must prove what it pleads and that it would not be right to read it as laying down any general proposition that in a case of this nature the burden of providing that nature of duties performed by an employee is supervisory or managerial is invariably on the employer*".

And in case of *A.G. Raj Rao vs. Ciba Geijy of India Ltd. Bombay AIR 1985 SC 985* wherein Hon'ble Apex Court has held that "*it is the duty of employee to state, to plead in respect to his status under an employer*".

4. For foregoing reasons, the reference is dismissed for the want of persuasion; and the workman is not entitled for any relief.

5. Award as above.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 23 मई, 2023

का.आ. 849.—औद्योगिक विवाद अधिनियम 1947, (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधतत्र, संबंद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (60/2015) प्रकाशित करती है।

[सं. एल- 12011/60/2015-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 23rd May, 2023

S.O. 849.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 60/2015) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Allahabad Bank and their workmen.

[No. L-12011/60/2015-IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM-LABOUR COURT, LUCKNOW

Present: Justice ANIL KUMAR, Presiding Officer

I.D. No. 60/2015

Ref. No. L-12011/60/2015-IR(B-II) dated 07/15-09-2015

BETWEEN

महामंत्री, इलाहाबाद बैंक स्टाफ एसोसियेशन यू0 पी0 द्वारा इलाहाबाद बैंक

हजरतगंज शाखा परिसर, लखनऊ - 226001

AND

1. सहायक महा प्रबन्धक, इलाहाबाद बैंक मण्डलीय कार्यालय,
   मोहददीपुर, कसया रोड, पो० कुडाघाट, गोरखपुर -273008
2. उप महा प्रबन्धक, इलाहाबाद बैंक, हजरतगंज, लखनऊ - 226001

AWARD

By order No. L-12011/60/2015-IR(B-II) dated 07/15-09-2015 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute for adjudication with following schedule:

"क्या प्रबंधन, इलाहाबाद बैंक, लखनऊ द्वारा श्री अर्जुन प्रसाद, हैड कैशियर ओवर टाइम भुगतान न किया जाना न्यायोचित एवं बैध है? यदि नहीं तो यूनियन किस राहत को पाने का हकदार है?"

On 19.01.2006 the claimant has filed his claim petition, praying the following relief:

"(क) अक्टूर 2013 से अप्रैल 2014 तक किये हुए ओवर टाइम का भुगतान कराने का आदेश पारित करें।

(ख) विलम्ब से भुगतान पर व्याज भी दिलाये ।

(ग) वाद का परिव्यय भी दिलाये।"

On 03.10.2016 on behalf of respondent written statement (M-6) has been filed inter alia stating therein that the business hours at University Branch Gorakhpur starts at 10:00 am on all working days and staff has to report at branch 15minuts before star of business hours so as to serve the first customer at the stipulated time. And there were no such instructions passed by the branch manager and no office order regarding the closure of cash issued at the branch. The cash officer is always asked by the branch manager to strictly follow the cash transaction timings as well as opening and closing timings thereto.

Further, the cash at the branch is completely handled by the head cashier under the supervision of cash officer without the intervention of the branch head until unless it is very much necessary to do so for smooth functioning of the branch.

It is also stated that the branch head always works as per stipulated guidelines issued by the bank; and the branch manager never asked the employee to work beyond the bank business hours and it may have been occurred, if any, due to working style of the employee and not tallying of cash in time. Also, the employee was not instructed or called to work beyond the bank business hours at any point of time for the period in question and the delay in closing of cash may be due to working style of the employee thus not tallying the cash in time, the employee did not qualify to be eligible for overtime payment as per bipartite agreement.

Thereafter, on 12.6.2007/23.10.2017, rejoinder affidavit W-7 has been filed.

Needless to mention that after filing of written statement several opportunities were granted to the workman to file its evidence.

Thereafter, by an order dated 02.02.2021, passed by this Tribunal, the opportunity to the workman has been closed; and the matter is listed for argument.

From perusal of the order sheet the position is emerged out that since 02.02.2021 the matter is listed for hearing and none is appeared on behalf of claimant.

Moreover, on 17.01.2023, when the matter is taken up in revised list neither the workman nor his legal representative has put his appearance.

Accordingly, heard learned counsel for opposite party and perused the recaord.

Taking into consideration, the above said facts as well as the fact that no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, the adjudication case is liable to be dismissed.

Because, Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s Uptron Powertronics Employees' Union, iabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519*** has held as under:

> *"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*
>
> For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.
>
> Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 23 मई, 2023

का.आ. 850.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भरतीय स्टेट बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध मनिर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रमन्यायालय, चेन्नई के पंचाट (18/2021) प्रकाशित करती है।

[सं. एल- 12025/01/2023-आई आर (बी-I)-55]

सलोनी, उप निदेशक

New Delhi, the 23rd May, 2023

S.O. 850.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 18/2021) of the Cent. Govt. Indus. Tribunal-cum-Labour Court Chennai as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2023-IR(B-I)-55]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

CHENNAI

ID 18/2021

Present: DIPTI MOHAPATRA, LL.M., Presiding Officer

Date: 29.07.2022

Smt. R. Chitra
W/o Muthupandi
No. 590, Thellianvayal
Puliyadithambam, Devakottai
Sivagangai District

Tamil Nadu : 1st Party/Petitioner

AND

The Dy. General Manager (B&O)
State Bank of India
(Administrative Office)
2, Dr. Ambedkar Road
Madurai
Tamil Nadu-625002 : 2nd Party/Respondent

Appearance:

For the 1st Party/Petitioner : None
For the 2nd Party/Respondents : Advocate, M/s S. Makesh

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. 7/3/2021-A1 dtd. 30.04.2021 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"**Whether the action of Management of State Bank of India in imposing the punishment of "Removal of Service" to Smt. R. Chitra is legal and justified? If not, to what relief, the concerned workwoman is entitled to**?"

2. On receipt of the above reference from the appropriate Government, the dispute on reference is registered in ID No. 18/2021 and notices were issued to both the parties for their appearance fixing the case to 16.08.2021. Since then, the case is dragged for such a long period till 27.07.22 intervening almost 4 adjournments in the year 2021 viz. 30.08.21, 01.10.2021, 15.11.2021, 17.12.2021 and 4 adjournments in the year 2022 i.e. 21.01.2022, 15.03.2022, 04.05.2022 and 11.07.2022. The Petitioner nor the Authorized Representative appeared on any of those days. It appears even if for the interest of justice the Tribunal suo-moto afforded sufficient opportunities to the Petitioner, there was no progress in the proceeding due to the non-cooperation of the Petitioner. The non-appearance and non-participation in the proceeding by the Petitioner nor any Authorized Representative on her behalf, constrained the Tribunal not to repost the proceeding to any other date for the same purpose as much as it deems the petitioner has no interest to proceed with the case. Thus, the case is liable for dismissal in accordance to Law.

In view of the discussion held in preceding paragraph, it deems there exists no dispute for adjudication as referred by the Appropriate Government.

In the result the reference is answered against the Petitioners

An Award is passed accordingly.

The ID case stands dismissed

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 23 मई, 2023

का.आ. 851.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (85/2020) प्रकाशित करती है।

[सं. एल- 41012/04/2020-आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 23rd May, 2023

S.O. 851.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.85/2020) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen.

[No. L-41012/04/2020-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

Present: Justice ANIL KUMAR**,** Presiding Officer

I.D. No. 85/2020

Ref. No. L-41012/04/2020-IR(B-I) dated: 09.11.2020

BETWEEN

Shri Saiyaad Mohd. Fuzail, C/o Shri Parvez Alam,
283/63, Kha, Gandhi Kha, Gandhi Kanoura (Premwati Nagar)
Post-Manak Nagar - Lucknow.

AND

The Divisional Railway Manager (Personnel),
Northern Railway. Hazratganj,
Lucknow

AWARD

By order No. L-41012/04/2020-IR(B-I) dated: 09.11.2020 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> **"Whether the action of the management of Northern Railway, Lucknow in denying the promotion of workman Syed Mohd. Fuzail to the post of OS Grade-II is illegal & justified in the eye of law or not? If yes, as to what relief he is entitled to?"**

Accordingly, an industrial dispute No. 85/2020 has been registered on 01.03.2021.

By an order dated 22.12.2020 notices were issued, fixing 27.01.2021 for filing statement of claim.

On 27.01.2021 Sri Parvez Alam put appearance on behalf of the workman; but no statement of claim has been filed.

Thereafter following dates were fixed for file of statement of claim: 22.02.2021, 23.04.2021, 27.08.2021, 11.11.2021, 07.02.2022, 04.04.2022, 02.06.2022, 01.09.2022 and 31.10.2022.

On 01.09.2022 following order was passed:

"Case called out.

Heard Sri U.K. Bajpai for railways and perused record.

As last opportunity time is granted to file statement of claim.

List on 31.10.2022"

Today when the matter is taken in revised list, neither the workman nor his authorized representative is present. Further, the written statement has also not been filed on behalf of the workman.

After hearing the learned counsel for respondent and taking into consideration the fact that till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 12.02.2021.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of *V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194* as under:

"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."

In the case of *M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164* Hon'ble Allahabad High Court has held as under:

"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And by the Hon'ble Allahabad High Court in the case of *District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519;* wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 24 मई, 2023

का.आ. 852.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दि बैंक ऑफ राजस्थान लिमिटेड के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट (51/1996) प्रकाशित करती है।

[सं. एल- 12012/28/95- -आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 24th May, 2023

S.O. 852.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 51/1996) of the Cent.Indus.Tribunal-cum-Labour Court Jaipur as shown in the Annexure, in the industrial dispute between the management of The Bank of Rajasthan Limited and their workmen.

[No. L-12012/28/95-IR(B-I)]

SALONI, Dy. Director

अनुबंध

समक्ष केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर, राजस्थान

Presiding Officer : Gajendra Pal Mogha, RHJS
Central IT Case No. : 51/1996
CIS No. : 14/2014
रैफरैंस : भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल–12012/28/95– आई.आर.(बी–1) दिनांक 29.10.1986एवं संशोधित अधिसूचना दिनांक 6.9.2001

———

अध्यक्ष, ऑल बैंक सफाई कर्मचारी संघ, राजस्थान।

द्वारा– सैन्ट्रल बैंक ऑफ इण्डिया, एम.आई.रोड, जयपुर। ....प्रार्थी

बनाम

1. उपमहाप्रबंधक (पीएडी), दि बैंक ऑफ राजस्थान लिमिटेड, प्रधान कार्यालय–सी–3, सरदार पटेल मार्ग, सी–स्कीम, जयपुर।
2. चैयरमैन, दि बैंक ऑफ राजस्थान लिमिटेड, प्रधान कार्यालय–सी–3, सरदार पटेल मार्ग, सी–स्कीम, जयपुर। (The Bank Of Rajasthan का विलय हो जाने के कारण वर्तमान में ICICI ठंदाए कार्यालय–सी–3, सरदार पटेल मार्ग, सी–स्कीम, जयपुर) ....अप्रार्थीगण

उपस्थित

प्रार्थी की ओर से : श्री कान सिंह राठौड़
अप्रार्थी की ओर से : श्री रूपिन काला

दिनांक अवार्ड : 19.04. 2022

अधिनिर्णय

भारत सरकार के श्रम मंत्रालय की उपरोक्त आज्ञा क्रमांक से निम्न अनुसूची का विवाद अधिनिर्णय हेतु इस अधिकरण को प्राप्त हुआ है –

''क्या उपमहाप्रबंधक (पीएडी), दि बैंक ऑफ राजस्थान लिमिटेड, केन्द्रीय कार्यालय–सी–3, सरदार पटेल मार्ग, सी–स्कीम, जयपुर के द्वारा 25 सफाई कर्मचारियों को यूनियन के पत्र दिनांक 15.12.94 के द्वारा मांगी गई वेतन श्रृंखला नहीं दिया जाना उचित एवं वैध है? यदि नहीं तो श्रमिक किस राहत के अधिकारी हैं?''

उक्त संदर्भ (Reference) इस न्यायाधिकरण को प्राप्त होने पर प्रकरण दर्ज रजिस्टर किया जाकर उभय पक्षकारान् को नोटिस जारी किये गये। प्रार्थी श्रमिक की ओर से स्टेटमेंट ऑफ क्लेम पेश कर अभिकथन किया है कि अप्रार्थी बैंक ऑफ राजस्थान लि0 एक अनूचित बैंक है तथा इण्डियन बैंक एसोसियेशन व भारत सरकार के द्वारा पारित नियमों को मानने के लिये बाध्य है। प्रार्थी यूनियन द्वारा समान कार्य समान वेतन देने तथा द्विपक्षीय समझौते के अनुसार वेतन नहीं देने पर प्रार्थी यूनियन के पत्र दिनांक 15.12.1994 के अनुसार वेतन श्रृंखला दी जाने तथा श्रमिकों को प्रथम नियुक्ति से अथवा 240 दिन की सेवा अवधि से सफाई सेवकों के पद पर नियमित किया जाकर वेतन श्रृंखला का लाभ मय एरियर दिलाये जाने का कथन किया है।

विपक्षी बैंक की ओर से स्टेटमेंट ऑफ क्लेम का जवाब पेश कर अभिकथन किया है कि प्रार्थी यूनियन मान्यता प्राप्त संघ है। प्रार्थी श्रमिकगण अधिनियम की धारा 2एस के तहत श्रमिक की परिभाषा में नहीं आते हैं। विपक्षी बैंक द्वारा द्विपक्षीय समझौते के तहत अंशकालीन कर्मचारियों को समझौते के अनुसार वेतन व सेवा संबंधी लाभ दिये जा रहे हैं। प्रार्थी श्रमिकगण के 25 श्रमिकों में से क्र0सं0 1 से 7 तक वर्णित व्यक्तियों का विपक्षी बैंक ने निर्धारित चयन प्रक्रिया अपनाते हुये वर्ष 1993 में अंशकालीन सफाई कर्मचारी के पद पर चयन कर 1/2 स्केल वेजेज (scale wages) पर नियुक्ति पत्र जारी कर केन्द्रीय कार्यालय में पदस्थापित किया जा चुका है तथा अन्य 6 श्रमिकगण पूरनचंद, संताराम, ओमप्रकाश, कंचन देवी, मंगल व महेन्द्र विपक्षी बैंक में कार्यरत ही नहीं रहे हैं तथा अन्य 12 श्रमिकगण द्वारा विपक्षी बैंक की विभिन्न शाखाओं/कार्यालय में उनके अंशकालीन कार्य के लिये निर्धारित मानदेय 450/—रू0 प्रतिमाह भुगतान किया जा रहा है। प्रार्थी श्रमिकगण द्वारा किया जा रहा अंशकालीन कार्य 3 घंटे अथवा 6 घंटे से कम का होता है। ऐसे श्रमिकों को द्विपक्षीय समझौते के तहत प्रति सप्ताह एक निश्चित राशि का भुगतान किया जाता है। प्रार्थी श्रमिकगण द्वारा प्रस्तुत क्लेम खारिज किया जाकर पर विवाद रहित पंचाट (No Dispute Award) पारित किया जावे।

प्रार्थी यूनियन की ओर से दिनांक 19.9.2016 को पक्षकार बनाये जाने बाबत् प्रार्थना पत्र पेश किया, जिसका अप्रार्थी बैंक द्वारा दिनांक 14.02.2021 को जवाब पेश किया गया। पत्रावली बहस प्रार्थना पत्र की स्टेज पर नियत थी। प्रार्थी यूनियन के अधिकृत प्रतिनिधि श्री कान सिंह राठौड़ द्वारा दिनांक 29.11.2021 को प्रार्थी यूनियन से कोई संपर्क नहीं होने के कारण प्रकरण में हिदायत पैरवी नहीं करना (No Instruction) जाहिर किया। जिस पर न्यायाधिकरण द्वारा प्रार्थी यूनियन को नोटिस जारी करने के आदेश दिये गये। प्रार्थी यूनियन का नोटिस ए0डी0 बाद तामील प्राप्त होने के बावजूद प्रार्थी यूनियन की ओर से कोई उपस्थित नहीं होने पर अप्रार्थी प्रतिनिधि की बहस सुनी गई।

अप्रार्थी के अधिकृत विद्वान प्रतिनिधि का कथन है कि प्रकरण में प्रार्थी यूनियन की ओर से कोई उपस्थित नहीं है तथा प्रार्थी यूनियन द्वारा प्रस्तुत क्लेम साक्ष्य से प्रमाणित नहीं कराया गया है। अतः प्रस्तुत क्लेंम खारिज किया जावे।

मैंने अप्रार्थी प्रतिनिधि के तर्कों पर मनन किया एवं पत्रावली का ध्यानपूर्वक अवलोकन किया।

राज्य सरकार द्वारा जो उपरोक्त अधिसूचना के जरिये विवाद अधिनिर्णय हेतु प्रेषित किया है, वह प्रार्थी यूनियन की मांग के संबंध में है, जो पूर्णतया साक्ष्य का विषय है। प्रार्थी यूनियन की ओर से अधिकृत प्रतिनिधि द्वारा यूनियन से कोई संपर्क नहीं होने से प्रकरण में हिदायत पैरवी नहीं करना (No Instruction Plead) जाहिर किया है। उसके पश्चात् प्रार्थी यूनियन का नोटिस ए0डी0 बाद तामील प्राप्त होने के बावजूद प्रार्थी यूनियन की ओर से कोई उपस्थित नहीं हुआ है, जिससे यह प्रकट होता है कि प्रार्थी यूनियन प्रकरण में कोई रूचि नहीं रखता है। प्रार्थी यूनियन द्वारा जिन 25 श्रमिकों के संबंध में विवाद उठाया गया है, उनमें से 7 श्रमिकगण प्रकाश कुमार, राजेश कुमार डाबरिया, सोहनपाल बेनीवाल, बलदेव कुमार, राजू सैन, जितेन्द्र सैन एवं पप्पू द्वारा न्यायाधिकरण के समक्ष प्रार्थना पत्र पेश कर कथन किया है कि अप्रार्थी बैंक द्वारा उन्हें पूर्णकालिक सफाई कर्मचारी मानते हुये देय लाभ दिये जा चुके हैं अतः वह उक्त प्रकरण अप्रार्थी बैंक के विरूद्ध चलाना नहीं चाहते हैं और न ही अप्रार्थी बैंक पर उनका अब कोई क्लेम बकाया रहा है। अतः विवाद रहित पंचाट (No Dispute Award) पारित किये जाने का निवेदन किया है।

प्रकरण में प्रार्थी यूनियन द्वारा जो स्टेटमेंट ऑफ क्लेम पेश किया गया है, औद्योगिक विवाद अधिनियम के प्रावधानों के तहत उसे सिद्ध करने का भार स्वयं प्रार्थी यूनियन पर है। प्रार्थी यूनियन द्वारा अपने क्लेम को साक्ष्य से साबित नहीं किया गया है। प्रार्थी श्रमिकगण में उक्त 7 श्रमिकगणों द्वारा प्रकरण में कोई कार्यवाही नहीं किये जाने बाबत् निवेदन किया गया है। अतः साक्ष्य के अभाव में प्रार्थी श्रमिकगण कोई राहत पाने के अधिकारी नहीं है। निष्कर्षतः प्रकरण में निम्न अवार्ड पारित किया जाता है।

अधिनिर्णय

''प्रार्थी श्रमिकगण में से श्रमिकगण प्रकाश कुमार, राजेश कुमार डाबरिया, सोहनपाल बेनीवाल, बलदेव कुमार, राजू सैन, जितेन्द्र सैन एवं पप्पू के लिये उनके द्वारा प्रस्तुत प्रार्थना पत्र के आधार पर विवाद रहित पंचाट (No Dispute Award) पारित किया जाता है तथा अन्य शेष 18

श्रमिकगण को साक्ष्य के अभाव में उपमहाप्रबंधक (पीएडी), दि बैंक आंफ राजस्थान लिमिटेड, केन्द्रीय कार्यालय–सी–3, सरदार पटेल मार्ग, सी–स्कीम, जयपुर के द्वारा यूनियन के पत्र दिनांक 15.12.94 के द्वारा मांगी गई वेतन श्रृंखला नहीं दिया जाना उचित एवं वैध है। प्रार्थी श्रमिकगण कोई राहत पाने के अधिकारी नहीं है।''

गजेन्द्र पाल मोघा, न्यायाधीश

नई दिल्ली, 24 मई, 2023

का.आ. 853.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **उत्तर मध्य रेलवे** के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **कानपुर** के पंचाट (137/2019) प्रकाशित करती है।

[सं. एल- 41011/09/2019-आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 24th May, 2023

S.O. 853.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 137/2019) of the Cent.Govt. Indus. Tribunal-cum-Labour Court Kanpur as shown in the Annexure, in the industrial dispute between the management of North Central Railway and their workmen.

[No. L-41011/09/2019-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

BEFORE SHRI SOMA SHEKHAR JENA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT

KANPUR

Present: SOMA SHEKHAR JENA Hjs (Retd.)

I.D. No. 137 of 2019

L-41011/09/2019-IR(B-I) dated 12.04.2019

BETWEEN

Sh. S.M.Sharma,
Central President, North Central Railway Karmchari
Sangh, Allahabad Zone, 339/180C/37,
Sector-7, Rajroop Pur,
ALLAHABAD-211011

AND

1. The Senior Personnel Officer,
   North Central Railway,
   ALLAHABAD-211012

2. The Divisional Personnel Officer,
   North Central Railway,
   AGRA(U.P)-282005

AWARD

This award arises in respect of the reference mentioned in the schedule stated below as received from the Government of India in letter no. L-41011/09/2019-IR(B-I) dated 12.04.2019

SCHEDULE

"Whether the demand of the union, North Central Railway Karamchari Sangh, Allahabad, seeking to participate in the PNM(Permanent Negotiations Machinery) meeting etc., is fair and legal? If not, to what relief the union concerned is entitled for."

On receipt of notification, notices were issued to both the parties on 6th May, 2019 In response to the notice the AR of the management filed the authority letter on 30.05.2019. Since then several opportunities were provided to the claimants workmen but claimants workmen failed to register their presence before this Tribunal. The proceeding was fixed to dates 30.05.2019, 7.08.2019, 11.09.2019, 01.01.2020, 26.02. 2020, 06.07.2020, 05.08. 2020, 03.11.2020, 28.01.2021, 16.04.2021, 22.07.2021, 22.09. 2021, 26.11.2021, 11.01.2022, 23.03.2022, 28.04.2022, 19.05.2022 but till now no statement of claim on behalf of claimant side has been submitted before this Tribunal. As a last opportunity a notice was sent on 24th March, 2022 to appear before this Tribunal. But claimants workmen again failed to appear before this Tribunal. From the aforesaid circumstances it is presumable that the workmen are not interested in prosecuting their case further before the Tribunal.

Hence in the given circumstances the reference stands disposed of as of 'NIL' award.

Parties are left to bear their respective costs.

SOMA SHEKHAR JENA, Presiding officer

नई दिल्ली, 24 मई, 2023

का.आ. 854.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (129/2013) प्रकाशित करती है।

[सं. एल- 12012/72/2013-आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 24th May, 2023

S.O. 854.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.129/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Kanpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/72/2013-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

BEFORE SHRI SOMA SHEKHAR JENA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT

KANPUR

Present: SOMA SHEKHAR JENA HJS (Retd.)

I.D. No. 129 of 2013

L-12012/72/2013-IR(B-I) dated 04.10.2013

BETWEEN

Shri Raj Kishore,
S/o Late Shiv Adhar Dwivedi,
C/o Shri O.P,
117/K-36, Sarvodaya Nagar,
Kanpur(U.P)-208005

AND

1. The Asstt. General Manager,
   State Bank of India, Mall Road,
   Kanpur(U.P)-208001

2. The Dy. General Manager,
   State Bank of India, Mall Road,
   Kanpur(U.P)-208001

3. The Branch Manager,
   State Bank of India,
   Ratan Lal Nagar,
   Kanpur(U.P)-208022

AWARD

This award arises in respect of the reference mentioned in the schedule stated below as received from the Government of India, Ministry of Labour in letter No. L-12012/72/2013-IR(B-I) dated 04.10.2013

SCHEDULE

1. **'Whether the action taken by management of State Bank of India, Kanpur in terminating the services of Shri Raj Kishore S/o Late Shiv Adhar Dwivedi workman with effect from 01.07.2012 is just fair & legal? To what relief the workman concerned is entitled to ?'**

The averments of the claimant workman may be concisely stated as follows:-

The claimant was engaged by the State Bank of India in subordinate cadre as messenger cum peon in opposite Party Bank since 01.07.1983. The claimant worked with effect from 01.07.1983 to 26.08.1983 at Pandu Nagar Branch, Kanpur and worked since 01.09.1983 in Ratan Lal Nagar Branch, Kanpur. The Bank for exploitation treated the claimant as canteen boy of local implementation committee but the work taken from the claimant was that of messenger cum peon of the Bank. It is important to mention here that Ratan Lal Nagar Branch of the State Bank of India has no canteen, as such there is no question to engage a canteen boy in the said Branch. The Bank has done all this to camouflage the issue and papers are sham to exploit the poor workman. The claimant is a workman of the opposite Party Bank and has been working as messenger cum peon. The claimant was regularly deputed by the Bank to deliver Local Dak and cheques/drafts to other branches for which the claimant was being paid conveyances allowance by the Bank. He is regularly deputed to go the Post Office for sending Regd. Letters/Speed post and for purchase of tickets etc. and was paid conveyance allowance. The claimant was used to submit bills for payment of conveyance allowance which were sanctioned by the Bank and were paid through vouchers which clearly demonstrate that the claimant was performing regular work of messenger cum peon of the Bank. The work and conduct of the claimant had been very good. The claimant has never given any chance of complaint to any officer of the Bank. No charge sheet or warning had ever been issued to the claimant. Unsatisfied with the low wages and no benefit against the extreme work taken from the claimant workman by the bank, claimant made repeated requests for permanency and other benefits. But exasperated from repeated demand of permanency Opposite party terminated his service w.e.f 01.07.2012. The claimant has worked in Ratan Lal Nagar Branch since 01.09.1983 continuously till till the date of termination and has worked for 365 days in each year that is more than 240 days in each year. The termination of the claimant is malafide as no charge sheet nor warning had ever been issued to the claimant. The termination of the claimant is retrenchment as defined in Section 2 (oo) of the Industrial Disputes Act 1947. Therefore the employer was liable to pay notice pay and retrenchment compensation before termination of his service as required under Section 25 F of the Act. The employer has not paid notice pay or retrenchment compensation, as such the termination of the claimant is illegal and unjust. Claimant workman prayed before this Tribunal to give direction to the O.P management side for producing original conveyance allowances paid to the claimant

workman and Local Delivery Book of the aforesaid documents in order to reveal the real truth. Claimant workman prayed before the Tribunal for reinstatment as messenger cum peon with continuity of service. The employer be directed to pay full back wages and other benefits as are paid to regular messenger cum peon from the date of engagement i.e 01.09.1983. and other consequential reliefs under the circumstances of the case.

The averments of the O.P management side may be summarized as follows:-

It is alleged by the management side that the material facts have been suppressed by claimant workman in his claim statement. It is further pointed out that Deputy General Manager, Kanpur as well as Assistant General Manager, Kanpur has purposely been arrayed as opposite party no. 2 and O.P.No.3 respectively by the claimant whereas he had not worked for a day in their offices and claim under reply has only been filed to create illegal pressure upon the bank's management, which deserved to be dismissed prima facie. It is specifically pointed out that claimant workman had no locus standi to raise present dispute because he was engaged as canteen boy by local Implementation Committee, which was being run for welfare activities of staff at State Bank of India Ratan Lal Nagar Branch, Kanpur. It is further stated that the wages to canteen boy was paid and his service was terminated by Local Implementation Committee (L.I.C). Moreover it was mentioned that canteens in branches were non-statutory canteens and were run on the principle of **" no profit no loss basis".** In the light of law laid down by Hon'ble Apex Court in State Bank of India and others v. State Bank of India canteen employees union [Bengal circle] and others, claimant is not entitled to get relief as sought from the court. It is further averred by management side that claimant workman never had remained in service continuously for 240 days in State Bank of India Ratan Lal Nagar Branch, Kanpur in any calendar year. Hence claimant workman's application is out of purview of the section 25 F of the Industrial Dispute Act 1947 and the case of retrenchment is not applied here. It is further pointed out that the management has a procedure for recruitment of subordinate staff in the bank and he was not appointed as per the procedure. It is further stated that the manager is not vested any authority with to give appointment. It is further mentioned by the opposite party that on some occasions to meet urgency his services were used as casual labourer for which , payment was made to him but it cannot be deemed as an employment in bank. It is further mentioned that several settlements were arrived at, which were signed by State bank of India and All India State Bank of India Staff Federation in the year 1987, 1988 and 1991 to provide an opportunity for absorbing temporary employees as well as casual labourers against existing/future permanent vacancies. It is further asserted that after conducting interview, panels of suitable candidates were prepared by selection committee in the year 1989 and 1991 and both panels were kept alive till March 1997 as per settlement dated 09.06.95 but claimant never applied for his absorption under the provisions of settlements as discussed. Hence there is no room for sympathy in the instant matter. There was no employee and employer relationship between the claimant workman and the O.P management. O.P prayed before the Tribunal to set aside the Industrial dispute case as there is no substance in the matter.

Claimant workman in his rejoinder vehemently reiterated that there was no canteen in Ratan Lal Nagar Branch of the Bank nor there was there any provision for it. The bank had taken the work of a messenger of a subordinate cadre. Since there is no canteen in the concerned branch the question of engaging the claimant workman as canteen boy does not arise.

The points to be answered in this proceeding are as follows:-

1. Whether workman Raj Kishore is legally entitled for reinstatement in Grade of messenger in State Bank of India.
2. To what other relief the workman is entitled to.

Point NO. 1

From the statement of workman RajKishore made in course of cross examination it is crystal clear that his name was not sponsored by any employment exchange before his engagement and no advertisement inviting application for appointment of 'chaprasi' was published and then the workman had not received any written letter of appointment. The above deposition made by the workman otherwise points that the workman was not appointed in State Bank of India as its staff as chaprasi or messenger as claimed by him. He has deposed that he was orally directed to work in Ratan Lal Nagar Branch, instead of Pandu Nagar Branch. Such kind of oral direction as claimed by the workman is normally not followed in any Government controlled banking establishment. Though it is submitted on behalf of claimant workman that for adjudicating the reference proceeding the Tribunal is not expected to embark upon determining legality of the appointment of the workman. The submission on behalf of the workman is unacceptable as when there is rigid form of selection process for appointment as messenger in public sector bank. The claim of the workman that he was appointed as chaprasi or messenger has to be scrutinized with caustic appreciation if his appointment was made under legally sustainable procedure. Though it is stated by the workman that there is no canteen in the State Bank of India. Such oral denial is not adequate to outweigh the documentary evidence ME1/1, ME 1/2, ME 1/3 (17 in number)

which clearly show that the workman Raj Kishore Dwivedi was engaged as canteen boy with monthly remuneration of Rs 1,000/-. There is no document showing that workman had ever challenged his status canteen boy as found from exhibits ME 1/1 upto ME 1/17. The said documents ME 1/1…ME 1/17 are admissible in evidence in view of the spirit of the Bankers' Books of Evidence Act which can be reasonably followed before a Tribunal. The suggestion of O.P State Bank of India the workman was engaged as canteen boy is found to have been established with greater preponderance of probability demolishing the claim of the workman that he was engaged as chaprasi. The so called experience certificate showing that the workman had worked for 45 days during the period from 01.07.1983 till 23. 08.1983 will not confer any right on the claimant workman to be absorbed as permanent employee in State Bank of India with reinstatement in any regular vacancy in the State Bank of India. It is well settled in law that canteen is not a part of State Bank of India though the employees of State bank of India might be getting benefits by a canteen for discharge of their duties with better efficiency.

Though it is vehemently submitted on behalf claimant workman that Tribunal is supposed to look into propriety and legality of engagement of the claimant workman by the employer of the purpose of adjudication of industrial dispute. such arguments is found to be illusory and unsustainable when examined in the light of rigid rules that have been framed for engaging any person as messenger-cum-peon in State Bank of India which is a leading public sector bank. In view of scenario stated above it can be logically concluded the workman (Raj Kishore Dwivedi) is not legally entitled for reinstatement in the grade of chaprasi or messenger in State Bank of India.

Point NO. 2

In the foregoing discussions it has been concluded that canteen was not part of the State Bank of India and Opposite party State Bank of India cannot be legally compelled to absorb the workman in any vacancy of State Bank of India lest the same should go against the spirit of the guidelines issued by the Hon'ble Supreme Court of India in UMA Devi case (State of Karnataka V/s Uma Devi Appeal (civil) 3595-3612 of 1999). Indian Drugs and Pharmaceuticals vs Workman, Indian Drugs & Pharmaceuticals Ltd Appeal (civil) 4996 of 2006 case Since there are documents for proving that workman Raj Kishore had worked for 240 days continuously in the Canteen before his disengagement. He can be given compensation. Since the workman is found to have worked for a fairly long period in canteen of State Bank of India as found from documents ME 1/1, ME 1/2 ……..ME 1/17 he can be allowed compensation. At this point of time exact compensation cannot be worked out with mathematical accuracy. Under such scenario guess work can be resorted to. Considering the period of engagement, wages paid to the workman and his age he is entitled to get one time compensation of Rs 2 lakhs and the whole amount shall be deposited in the bank account of the claimant workman within 60 days from the date of publication of the award failing which claimant workman shall be entitled to get commercial rate of interest claimed by the Bank from its customers till the whole amount is cleared.

The above compensation shall be paid by State Bank of India out of the funds allotted for management of local implementation of committee within 60 days from the date of publication of the award. Since both the sides have submitted the averments which are also imbued with doubtful veracity.

parties are left to bear their respective costs.

Date: 15.11.2022 SOMA SHEKHAR JENA, Presiding Officer

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